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Washington, Tuesday, August 23, 1938

The President

EXECUTIVE ORDER

ESTABLISHING WEST SISTER ISLAND MIGRATORY BIRD REFUGE

OHIO

[Corrected Print]

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all that part of West Sister Island, in Lake Erie, Lucas County, Ohio, lying east of a line bearing north and south through a point which is east 200 feet distant from the center of the West Sister Island Lighthouse tower (the geographic position of which lighthouse is latitude 40°44'13" N., and longitude 88°06'38" W. from Greenwich), and containing 82.00 acres, more or less, be, and it is hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided,* That nothing herein contained shall restrict the Bureau of Lighthouses from the right of ingress and egress over all parts of the island, together with the right to use any landing wharf for the purpose of tending and maintaining aids to navigation.

The Executive order of February 16, 1838, reserving West Sister Island for lighthouse purposes, is hereby revoked in so far as it effects the lands reserved by this order.

This reservation shall be known as the West Sister Island Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
Aug. 2, 1938

[No. 7937]

[F. R. Doc. 38-2293; Filed, August 8, 1938; 10:03 a. m.]

EXECUTIVE ORDER

AUTHORIZING THE EMPLOYMENT UNTIL FEBRUARY 1, 1939 OF PERSONNEL WITH FUNDS ALLOTTED UNDER THE PUBLIC WORKS ADMINISTRATION APPROPRIATION ACT OF 1938 WITHOUT COMPLIANCE WITH THE REQUIREMENTS OF THE CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act of January 16, 1883 (22 Stat. 403, 404), and as President of the United States, it is hereby ordered that until February 1, 1939 (the effective date of Executive Order No. 7916[1] extending the classified civil service), appointments to all positions in the several departments, independent establishments, and agencies of the Government, the compensation of which is paid from funds allotted by the Federal Emergency Administrator of Public Works under the Public Works Administration Appropriation Act of 1938 (Title II of the act of June 21, 1938, Pub. Res. 122), or from prior appropriations still available for similar allotments, may be made by the said departments, independent establishments, and agencies of the Government without compliance with the requirements of the Civil Service Rules.

This order is issued at the request of the Federal Emergency Administrator of Public Works.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 19, 1938.

[No. 7956]

[F. R. Doc. 38-2465; Filed, August 22, 1938; 9:57 a. m.]

EXECUTIVE ORDER

ESTABLISHING CAPE MEARES MIGRATORY BIRD REFUGE

OREGON

By virtue of and pursuant to the authority vested in me as President of the

[1] 3 F. R. 1526 DL

CONTENTS

THE PRESIDENT

Executive Orders: Page
Cape Meares Migratory Bird Refuge, Oreg., establishment 2047
Public Works Administration Appropriation Act of 1938, employment until February 1, 1939 of personnel allotted under 2047
West Sister Island Migratory Bird Refuge, Ohio, establishment (corrected print) 2047

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:
Bureau of Entomology and Plant Quarantine:
Fumigation of tomatoes by methyl bromide 2048

TITLE 11—AVIATION:
Civil Aeronautics Authority:
Air carriers and foreign air carriers (effective date of Sections 403 and 412 of Civil Aeronautics Act) 2049
Air Mail Act of 1934, as amended, postponing repeal of certain provisions of 2056
Airmen, specified classes of; exemption of certain foreign aircraft and airmen 2056
Certificates of convenience and necessity, applications for 2049
Civil Air Regulations of May 31, 1938, adopted with certain alterations or amendments 2051

TITLE 15—COMMERCE:
National Bituminous Coal Commission:
District No. 13, minimum prices in certain counties of Tennessee 2058
Minimum Price Areas 2, 3, 4, and 5:
Minimum prices for coal produced in districts within 2057

(Continued on next page)

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CONTENTS—Continued

Page

Rules and regulations incidental to sale, etc., of coal 2058

Weighted average of total costs of tonnage produced within 2061

Rules of Practice, Section 466.071 (exemptions) amended 2059

TITLE 16—COMPETITIVE PRACTICES:
Federal Trade Commission:
Cease and desist orders:
Cooperative Library Co 2062
Jacobson, Irving Roy, et al 2061

TITLE 19—CUSTOMS DUTIES:
Bureau of Customs:
Seeds, imported, kinds and proportions to be colored 2063
Wool hooked rugs, protest overruled on classification of and rate of duty imposed on 2063

TITLE 20—FISH AND GAME:
Bureau of Fisheries:
Alaska fishery regulations amended 2063

TITLE 21—FOOD AND DRUGS:
Food and Drug Administration:
Federal Food, Drug, and Cosmetic Act, regulations under Section 801 2064

TITLE 26—INTERNAL REVENUE:
Bureau of Internal Revenue:
Closing agreements as to future tax liability 2064

TITLE 31—MONEY AND FINANCE: TREASURY:
Office of the Secretary:
Official information, disclosure of 2065

CONTENTS—Continued

Page

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION:
Civilian Conservation Corps:
Enrollees, eligibility for selection and reselection 2065

TITLE 43—PUBLIC LANDS:
General Land Office:
Alaska, free use of timber upon public lands by churches, hospitals, etc 2066

NOTICES

Civil Aeronautics Authority:
Exemptions under Civil Aeronautics Act of certain services of:
Pennsylvania-Central Airlines Corp 2066
United Air Lines Transport Corp 2067
Western Air Express Corp 2068

Rural Electrification Administration:
Allocation of funds for loans 2069

Securities and Exchange Commission:
Consolidated Textile Corp., capital stock, listing and registration 2069
Page Power Co., issue and sale of securities exempted 2070
Utilities Elkhorn Coal Co. Bondholders Committee (Henry A. Gardner, et al.), hearing 2070

United States, and by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that the following-described lands, comprising 138.51 acres, more or less, in Tillamook County, Oregon, be, and they are hereby, reserved and set apart for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife:

WILLAMETTE MERIDIAN

T. 1 S., R. 10 W.,
sec. 18, lots 1 and 2;
T. 1 S., R. 11 W.,
sec. 12, lot 1;
sec. 13, lots 1 and 4.

The above-described lands having been declared by the Department of Commerce to be surplus to its needs, the Executive Order of May 28, 1889, reserving certain public lands as the Cape Meares Lighthouse Reservation, is hereby revoked in so far as it affects the said above-described lands.

This reservation shall be known as the Cape Meares Migratory Bird Refuge.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
August 19, 1938.

[No. 7957]

[F. R. Doc. 38-2466; Filed, August 22, 1938; 9:57 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q. 480]

FUMIGATION OF TOMATOES BY METHYL BROMIDE AS A CONDITION OF CERTIFICATION OF TOMATOES MOVING BY REFRIGERATOR CAR FROM THE AREA LISTED IN REGULATION 5 OF QUARANTINE NO. 48

ADMINISTRATIVE INSTRUCTIONS

[Approved August 18, 1938; effective August 22, 1938]

Regulation 5, Sec. B, paragraph (2) of the Japanese beetle quarantine (No. 48)[1] authorizes the issuance of certificates for the interstate movement of fruits and vegetables via refrigerator car from the area listed in that regulation to points outside the regulated areas between June 15 and October 15 when they have been handled or treated under the supervision of an inspector in manner and by method to free them from any infestation.

TREATMENT AUTHORIZED

The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of tomatoes moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

TREATMENT METHOD

Fumigation of tomatoes in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the tomatoes and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of tomatoes fumigated according to the requirements stated above, it is to be understood that no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury.

Caution.—Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of tomatoes. It

[1] 3 F. R. 846 DI.

is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

[SEAL] AVERY S. HOYT,
Acting Chief, Bureau of Entomology and Plant Quarantine.

[F.R. Doc. 38-2474; Filed, August 22, 1938; 12:24 p.m.]

TITLE 11—AVIATION

CIVIL AERONAUTICS AUTHORITY

[General Orders 403-1 and 412-1]

POSTPONING THE EFFECTIVE DATE OF SECTIONS 403 AND 412 OF THE CIVIL AERONAUTICS ACT OF 1938 AS TO CERTAIN CLASSES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 17th day of August 1938.

Section 403 of the Civil Aeronautics Act of 1938, requires, among other things, that every air carrier and every foreign air carrier shall file tariffs with the Authority showing all rates, fares and charges for air transportation. Section 412 of said Act provides that every air carrier shall file with the Authority a copy or a memorandum of specified types of contracts affecting air transportation which are in force on the effective date of that section. Section 1110 of said Act authorizes the Authority to postpone the effective date of the provisions of the aforesaid sections if it finds such action to be necessary or desirable in the public interest.

Responsible representatives of the aeronautics industry have stated to the Authority that it is desirable that the effective date of section 403 shall be postponed in order to allow further time for an interchange of views between the representatives of the Authority and the industry with respect to the nature of the regulations to be adopted by the Authority relating to the manner in which tariffs shall be prepared and filed, and to permit the completion by the air carriers of tariff schedules which will comply with such regulations. The air carriers have also stated that they may have a large number of agreements which should be filed on the effective date of section 412 and that it will greatly assist them in the performance of that obligation if the effective date of said action is postponed.

The Civil Aeronautics Authority, having duly considered such representations, and being of the opinion that no interest of the public will be adversely affected by the postponement of the provisions of the Act which is to be effected by this order, and finding that its action in such respect is desirable in the public interest, and acting pursuant to the authority vested in it by Section 1110 of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1030) hereby makes and promulgates the following general orders, applicable to the respective classes of air carriers therein described, as follows:

GENERAL ORDER 403-1.—POSTPONEMENT OF EFFECTIVE DATE OF SECTION 403

As to all air carriers and all foreign air carriers, of every class and description, the effective date of all the provisions of section 403 of the Civil Aeronautics Act of 1938 is hereby postponed to the extent that such provisions shall not be effective as to such air carriers until 12:01 A. M. on October 3, 1938.

As to all classes of air carriers and all foreign air carriers, except those hereinafter in this paragraph more fully described, the aforesaid section is further postponed to and including the 180th day after June 23, 1938. The classes of carriers as to which such further postponement is not applicable are as follows:

(a) any air carrier, or foreign air carrier, who on or after August 22, 1938, shall maintain one or more regular schedules of operation; and

(b) any air carrier, or foreign air carrier, not directly engaged in air transportation.

GENERAL ORDER 412-1.—POSTPONEMENT OF EFFECTIVE DATE OF SECTION 412

As to all air carriers, and all foreign air carriers, of every class and description, the effective date of all the provisions of section 412 of the Civil Aeronautics Act of 1938 is hereby postponed to the extent that such provisions shall not be effective as to such air carriers until 12:01 A. M. on October 3, 1938.

As to all classes of air carriers and foreign air carriers, except those hereinafter in this paragraph more fully described, the aforesaid section is further postponed to and including the 180th day after June 23, 1938. The classes of carriers as to which such further postponement is not applicable are as follows:

(a) any air carrier, or foreign air carrier, who on or after August 22, 1938 shall maintain one or more regular schedules of operation; and

(b) any air carrier, or foreign air carrier, not directly engaged in air transportation.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F.R. Doc. 38-2451; Filed, August 20, 1938; 2:59 p.m.]

[Regulation 401-B-1]

APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

At a session of the Civil Aeronautics Authority held in the city of Washington, D. C., on the 20th day of August 1938.

Having duly considered the appropriate provisions for regulations with respect to the form and contents of applications for certificates of convenience and necessity that may be made to it pursuant to the provisions of section 401 of the Civil Aeronautics Act of 1938, and having found that the regulations hereinafter set forth are consistent with the provisions of said Act and necessary and appropriate to carry out the provisions thereof, the Civil Aeronautics Authority, exercising the powers and duties vested in it by sub-section (b) of section 401 and section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 937 and 934), hereby makes and promulgates the following regulation:

REGULATION 401-B-1, APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY

(a) *Number of copies.*—Three copies of each application for a certificate pursuant to section 401 of the Act shall be filed with the Authority: *Provided, however,* That if such application asks a certificate authorizing an air carrier to engage in overseas or foreign transportation or air transportation between places in the same territory or possession, six copies shall be filed. Only one of such copies need be actually executed on behalf of the applicant. The names and titles of all signing officers shall be clearly typed or printed beneath their signatures. All unexecuted copies filed with the Authority shall contain typed, printed or facsimile signatures. Each copy must be clear and legible in all respects.

(b) *Verification.*—The signed copy of each application shall be verified by the applicant. If the applicant is a partnership, such verification shall be made by two or more of the partners. If it is a corporation, business trust or other similar organization, the application shall be verified by three of its officers who shall be respectively the chief executive, the chief financial and the chief operating officer. In the event of the unavailability of any such officer, the acting officer charged with responsibility for his duties, may execute such verification in his stead. Every such verification shall set forth that the persons verifying the same have read and are familiar with the contents of the application and the attached exhibits; that they intend and desire that in granting or denying the rights and privileges applied for, the Authority shall place full and complete reliance on the accuracy of each and every statement therein contained; that they are familiar with the facts therein set forth; that to the best of their information and belief, every statement contained in the application is true and no such statement is misleading; and that, in their opinion, the application does not omit to state any facts known to them which would be deemed by the Authority to be of importance to it in reaching its determinations in connection therewith.

Every such verification shall be subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in which such application is executed.

(c) *Amendments to application.*—If, after receipt of any application, the Authority shall request the applicant to supply it with additional information, such information shall be furnished in the form of an amendment to the original application. Each such amendment shall be consecutively numbered and shall comply with the requirements of this regulation as to form, number of copies, manner of execution, verification, and in all other essential respects.

(d) *Formal requirements.*—Every application for a certificate shall be made on paper approximately 8½" x 13" in size except that exhibits or other documents attached thereto may be folded to those dimensions. Every such application shall be typewritten, printed or reproduced by some other process which will produce a clear and durable result on firm, tough paper. A margin of at least one inch in width shall be left on the left hand side of all pages and all applications must be bound on that side. All pages of an application shall be consecutively numbered and the application shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(e) *Time of filing.*—An application shall be deemed to have been filed only when it is actually received by the Civil Aeronautics Authority at its office in Washington, D. C.

(f) *Temporary certificates.*—An applicant who desires a certificate to engage in temporary air transportation may omit any information otherwise required, if he deems that such information is not necessary in order to enable the Authority to pass upon the merits of such a temporary operation. In this, as in all other cases, the Authority reserves the right to call upon the applicant to furnish it with additional information by suitable amendment.

(g) *Applications for non-scheduled operations.*—All applications for certificates for non-scheduled operations shall conform to all general provisions of this regulation, but the applicant may omit any of the information required by paragraphs (j), (k), or (l) which it considers to be inappropriate or unnecessary to an application for the particular type of service covered by such application.

(h) *Separate applications for "Grandfather" certificates.*—Applications for certificates under the "grandfather" clause (section 401 (e) (1)) shall not include applications for any extensions of the routes covered thereby or for any new or additional routes other than those concerning which the applicant claims the right to a certificate pursuant to the provisions of that sub-section. In general it is desirable that a single carrier shall file only one application under the "grandfather" clause and that such application shall cover all the routes claimed by that carrier pursuant to the provisions of that clause. Under special circumstances separate applications may be desirable. Thus in some instances it may clarify the applicant's situation to separate an application for routes including mail service from an application covering solely passenger or property service.

(h) (1) *Incorporation by reference.*—In general it is desirable that incorporation by reference shall be avoided. However, where two or more applications are filed by a single carrier, lengthy exhibits or other documents attached to one may be "incorporated" in the others "by reference" if that procedure will substantially reduce the cost to the applicant. Any such "incorporation" shall specify with exactness the item or exhibit incorporated and the precise place where the same may be found.

(i) *Cover page.*—A space of approximately 2½" by 4" shall be left blank on the upper right hand corner of the cover page of each application. This space will be used by the Authority for filing purposes. The cover page of each application shall give the name of the applicant, the sub-section of section 401 under which the application is made, and shall show whether the application is for a temporary or permanent certificate. The cover page shall also indicate briefly the routes covered by such application, the services (mail, passengers and property) to be rendered on the respective routes, and whether such operations are to be scheduled or non-scheduled. At the bottom of the cover page shall be given the name, title, and address of the person to whom communications from the Authority with respect to the application are to be sent.

(j) *General provisions concerning contents.*—The statements contained in an application shall be restricted to significant and relevant facts. They shall be free from argumentation or from expressions of opinion, except such as may be required by this regulation. Opportunity for argument will be given in the subsequent proceedings.

Each application shall give full and adequate information with respect to each of the items set forth in this paragraph (j) of this regulation, together with the additional information required by paragraph (k) or (l) for the respective types of certificates covered thereby. In addition, the application may contain such other information and data as the applicant shall deem necessary or appropriate in order to acquaint the Authority fully with the particular circumstances of its case.

Each application shall give full and adequate information with respect to each of the items set forth in this paragraph (j) of this regulation, together with the additional information required by paragraph (k) or (l) for the respective types of certificates covered thereby. In addition, the application may contain such other information and data as the applicant shall deem necessary or appropriate in order to acquaint the Authority fully with the particular circumstances of its case. Among other things, every such application shall give the following information:

1. The full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the state under the laws of which it is organized.

2. A statement that the applicant is a citizen of the United States, as defined by section 1 (13) of the Act. It is not required that the application shall contain all the evidence which the applicant is prepared to present at the hearing or otherwise in support of such statement, but the application shall at least indicate the nature and result of its investigations in that matter and the character of the evidence it will be prepared to present in support of citizenship.

3. An adequate identification of each route for which a certificate is desired, specifying the type or types of service (mail, passengers and property) to be rendered on each such route, and whether or not such services are to be rendered in scheduled operations. The identification of each route shall name every terminal and intermediate point to be included in the certificate for which application is made.

4. A map (which may be attached as an exhibit) drawn approximately to scale showing all terminal and intermediate points to be served, giving the approximate mileages between all adjacent points, and the principal over-all distances. This map should also indicate all of such points which are now served by air carriers, indicating by arrows the directions flown by such interconnecting carriers and stating their principal terminals, for example "to Dallas" or "to Chicago."

5. State whether the applicant has any reasonable grounds for believing that any other person intends to apply for a certificate covering any part of the routes included in the application. If so, give briefly the applicant's information with respect to such intended applications and the types of services they are expected to include.

(k) *Special information to be included in "Grandfather" applications.*—An application for a certificate under section 401 (e) (1) (the "grandfather" clause) shall contain all the information required by paragraph (j) of this regulation. In addition thereto every such application shall describe the operations of the applicant and any of its predecessors in interest from May 14, 1938 until August 22, 1938 in such a way as to show full compliance with the requirements of paragraph (e) (1) of section 401. The applicant shall also set forth such further facts as are necessary to enable the Authority to determine that such services were not inadequate and inefficient.

(l) *Special information to be included in applications for extensions or new routes.*—An application for a certificate with respect to an extension of an existing route or for a new route shall contain all the information required by paragraph (j) of this regulation. In addition thereto, every such application shall give the following information, except that if an application covers only one or more of the routes specified in subsection (e) (2) of section 401 the applicant may omit replies to items 1 and 8 hereof:

1. A map (in addition to the one required by item (4) of paragraph (j)) which shall indicate with reasonable accuracy all air transportation operations serving any of the points covered by such application. If any air carrier is engaged in operations between points not covered by the application but which would normally be considered as being on or near such points, the map shall show the routes served by such carrier. If the applicant has reason to believe that applications have been made or are about to be made for additional routes of the kinds described above, or that other operations of such character are about to be started, the map should indicate the approximate routes. Operations which are not already in existence should be shown by dotted lines or be clearly indicated by other appropriate symbol. In so far as practicable, the map should indicate the types of service rendered by existing and prospective carriers.

2. Describe generally all landing areas (as defined in section 1 (22) of the Act) along the routes covered by the application and give a statement of their adequacy for all types of aircraft which the applicant proposes to use in its operations.

3. Describe generally all existing air navigation facilities along such routes and any such facilities the applicant proposes to install at its own expense.

4. Describe fully any operations which the applicant has already conducted over any part of the routes covered by such application and its plans for making experimental flights or doing other pioneering work along each route.

5. State whether the applicant proposes to engage in day or night visual contact or instrument or over-the-top operations. Briefly describe the kind of terrain and any unusual metereological or other conditions prevalent in that region that might be expected to interfere with the safety or regularity of the proposed operations.

6. Except in a case where the application is for a relatively minor extension of an existing route, describe each aircraft which the applicant proposes to use in the new service, indicating the general nature of the appliances with which each is to be equipped. The statement shall show whether such aircraft is new or second-hand and its present value, if owned, or the price the applicant, expects to pay for it, complete with all instruments and other appliances. This item shall also include a statement of applicant's plans for reserve aircraft, aircraft engines, propellers, appliances and all other materials.

7. State the schedules (including times of departure and arrival) which the applicant proposes to fly at the beginning of operations and the schedules it plans to fly at the end of the first year of operation.

8. Except in a case where the application is for a relatively minor extension of an existing route, give careful estimates as to the population served by each route included in the application. For each of the first 5 years, give estimates of, (A) the amount of traffic the applicant will receive in each class of service to be rendered; (B) its gross revenues in dollars from each such class of traffic; and (C) the net profit from all operations after depreciation and taxes, but before interest. State the principles with respect to reserves for depreciation and obsolescence of equipment that have been used in making the above estimates. All estimates required by this paragraph should be supported by suitable data to verify their reasonableness.

9. Unless the applicant or its predecessors in interest have operated as air carriers for a period of at least 3 years immediately prior to the filing of the application, the application shall contain a statement of its present financial condition, a careful estimate of the additional money which it will be required to expend if the application is granted and shall disclose its plans and expectations for securing any additional funds that may be necessary to carry out its proposed operations. If additional financing will be needed, the applicant shall give detailed information as to its negotiations in that respect, specifying the types of securities it proposes to issue and such other facts as will enable the Authority to appraise the probability that the applicant will be able to raise the necessary funds and at a reasonable cost.

10. State generally the experience of the applicant and of its principal officers and employees in connection with aeronautical enterprises and the degree of financial success which has attended the enterprises with which they have been connected.

11. State fully all facts not elsewhere disclosed in the application which are known to the applicant and to the persons verifying the application which tend to show a probability, (A) that the proposed operations could not or would not be conducted with a high degree of safety to the travelling public, or (B) that the cost to the government for the transporting of the mail, in order to enable the proposed operation to be financially successful, would be excessive, or (C) that the granting of such certificate would deprive other air carriers of substantial parts of their revenues. Any such statement may point out any offsetting advantages, or the increased value of the services that the applicant would render to the public.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 38-2453; Filed, August 20, 1938; 3:00 p. m.]

[Regulation 691-A-1]

ADOPTING THE CIVIL AIR REGULATIONS MADE, PRESCRIBED AND ISSUED BY THE SECRETARY OF COMMERCE UNDER DATE OF MAY 31, 1938, WITH CERTAIN ALTERATIONS OR AMENDMENTS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August, 1938.

The matter of the Civil Air Regulations, made, prescribed and issued by the Secretary of Commerce, pursuant to the provisions of the Air Commerce Act of 1926 (44 Stat. 568), as amended by the Act of February 28, 1929 (45 Stat. 404), the Act of June 19, 1934 (48 Stat. 1113), the Act of June 19, 1934 (48 Stat. 1116), and sections 11 and 12 of the Act of June 12, 1934, (48 Stat. 933, 937), being under consideration by the Authority, upon its own motion and investigation, pursuant to the authority contained in section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) The Secretary of Commerce, pursuant to the authority vested in him under the Air Commerce Act of 1926 and its amendments, made, prescribed and issued certain civil air regulations to provide for the registration of aircraft, the rating of aircraft as to airworthiness, and the examination and rating of airmen and air navigation facilities; to provide for the issuance, suspension and revocation of registration, aircraft, airline and airmen certificates and such other certificates as the Secretary of Commerce deemed necessary in administering the functions vested in him under the Air Commerce Act of 1926, and its amendments; to establish air traffic rules for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between vehicles and aircraft.

(2) That pursuant to the provisions of section 501 (d) of the Civil Aeronautics Act of 1938, application for certificates of registration shall be in such form, be filed in such manner and contain such information as the Authority may require; that pursuant to the provisions of Title VI of said Act, the Authority is empowered, and it is its duty, to promote safety of flight in air commerce by prescribing and revising from time to time such minimum safety standards, rules and

regulations as the Authority may find necessary to provide adequately for safety in air commerce and to establish air traffic rules governing the flight of and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and between aircraft and land or water vehicles; to issue airman, aircraft, airworthiness, air carrier operating, air navigation facility rating and air agency rating certificates, and to prescribe the rules and regulations for and the form and manner of filing applications therefor.

(3) That the currently effective Civil Air Regulations, as issued by the Secretary of Commerce, as of date of May 31, 1938, prescribe the rules and regulations for and the form and manner of filing applications for registration certificates, set forth minimum standards, rules and regulations for the promotion of safety of flight in air commerce, and establish air traffic rules governing the flight of and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and land or water vehicles, and rules and regulations for the application for the issuance and terms and conditions of registration, airman, aircraft, airworthiness, airline competency, air navigation facility rating, and air agency rating, and the rules and regulations for the amendment, suspension and revocation thereof.

(4) That the currently effective Civil Air Regulations are the result of much study, research and analysis by officials of the Bureau of Air Commerce, Department of Commerce, and consulting experts; that the time between the enactment of the Civil Aeronautics Act of 1938 and the effective date of Title VI is such as to make impracticable the immediate analysis of the problems involved or careful preparation of revised regulations covering the matters described in Finding (2).

(5) That it is essential to the public interest and for the promotion of safety of flight in air commerce that there be minimum standards, rules and regulations governing the matters aforesaid.

(6) That, pursuant to the authority contained in section 205 (a) of the Civil Aeronautics Act of 1938, the Authority is empowered to make such rules and regulations pursuant to and consistent with the provisions of the Act as it shall deem necessary to carry out such provisions and to exercise and perform its powers and duties under said Act.

The Civil Aeronautics Authority, therefore, acting pursuant to the provisions of Section 205 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984), hereby makes and promulgates the following regulation:

REGULATION 601-A-1. SAFETY RULES

The Civil Air Regulations heretofore issued by the Secretary of Commerce on May 31, 1938, are hereby adopted by the Civil Aeronautics Authority and by it issued as its regulations under and pursuant to the Civil Aeronautics Act of 1938, subject, however, to the following substitutions, modifications and amendments:

1. The words "Civil Aeronautics Act", "Civil Aeronautics Authority", "Authority", "Administrator", "Air Safety Board", "air carrier", "air carrier operating certificate", "property", and such other words as are necessary, are substituted for "Air Commerce Act", "Secretary of Commerce", "Secretary", "Department of Commerce", "Director of Air Commerce", "Director", "Bureau of Air Commerce", "Bureau", "airline" (except where used in connection with "airline pilot"), "airline competency certificate", "airline certificate", "goods", and such other words as are necessary, as the provisions of the Civil Aeronautics Act of 1938 and the context of the Civil Air Regulations each require in order to make both of the same effective, all as is more specifically set forth in Exhibit "A" attached hereto and made a part hereof.

2. The abbreviations "C. A. A. A.", "C. A. A. T. C.", "C. A. A. M.", "CAA", "CAAM", and such other abbreviations as are necessary, are substituted for "A. C. A.", "A. C. T. C.", "A. C. M.", "AC", "ACM", and such other abbreviations as are necessary, as the provisions of the Civil Aeronautics Act of 1938 and the context of the Civil Air Regulations each require in order to make both of the same effective, all as is more specifically set forth in Exhibit "A" attached hereto and made a part hereof.

3. Strike all of sections 00.0, 01.0, 02.0, 03.0, 04.00, 13.00, 14.00, 15.00, 18.0, 20.0, 21.0, 23.0, 24.0, 25.0, 26.0, 27.0, 40.0, 40.60, 40.61, 50.0, 52.0, 60.0 and 61.0, in their entirety, inserting in lieu thereof the following sections, respectively, excepting only that section 26.00 shall be a new section.

"00.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, requiring the Civil Aeronautics Authority to provide for the granting of registration to aircraft eligible therefor, a registration certificate will be issued by the Authority for purposes of identifying the aircraft and determining its nationality, upon request of the owner and approval of application made and proofs submitted, for any aircraft duly shown to be eligible for such registration as an aircraft of the United States. A record of such registration will be maintained by the Authority.

"01.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue aircraft certificates and requiring the Civil Aeronautic Authority to prescribe such reasonable rules and regulations as it may find necessary to provide adequately for safety in air commerce, the following regulations are prescribed to provide for the rating of aircraft as to airworthiness, and the Authority will issue aircraft certificates in accordance therewith.

"02.0 *Provision for issuance.* Pursuant to the provisions of the Air Commerce Act of 1926, as amended, declaring that the United States of America is hereby declared to possess and exercise complete and exclusive national sovereignty in the air space above the United States, including the air space above all inland waters and the air space above those portions of the adjacent marginal high seas, bays, and lakes, over which by international law or treaty or convention the United States exercises national jurisdiction, and the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to promote safety of flight in air commerce by prescribing air traffic rules governing the flight of, and for the navigation, protection and identification of aircraft, the following regulations are prescribed for the assignment, approval, issuance and display of identification marks.

"03.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe rules for the identification of aircraft, the granting of registration to aircraft eligible therefor, and the rating of aircraft as to airworthiness, and to prescribe such reasonable rules and regulations as the Authority may find necessary to provide adequately for safety in air commerce, the following regulations are made to provide for the situations arising from the transfer of title to aircraft.

"04.00 *Scope.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing the design, materials, workmanship, construction and performance of aircraft as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for aircraft.

"13.00 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing the design, materials, workmanship, construction and performance of aircraft engines as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for aircraft engines for use in certificated aircraft.

"14.00 *Provisions for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards

governing the design, materials, workmanship, construction and performance of propellers as may be required in the interest of safety, and to provide for the rating of aircraft as to airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating for propellers for use in certificated aircraft.

"15.00 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe such minimum standards governing appliances, including instruments, equipment, apparatus, parts, appurtenances or accessories of whatever description, which are used, or are capable of being or intended to be used, in the navigation, operation, or control of aircraft in flight (including parachutes and communication equipment and any other mechanism installed in or attached to aircraft during flight), as may be required in the interest of safety, and to provide for the rating of aircraft and such appliances as to their airworthiness, the requirements hereinafter set forth shall be used as the minimum standards for establishing such rating of aircraft appliances for use in certificated aircraft.

"18.0 *Provision for re-rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering and requiring the Civil Aeronautics Authority to prescribe reasonable rules and regulations and minimum standards governing, in the interest of safety, the inspection, servicing and overhaul of aircraft, aircraft engines, propellers and appliances, and such other practices, methods and procedure as the Authority may find necessary to provide adequately for safety in air commerce, a certificated aircraft, aircraft engine, propeller or appliance which has been altered or repaired may be re-rated as to airworthiness in accordance with such of the following provisions as may be applicable.

"20.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, pilots will be rated in accordance with the following provisions.

"21.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, airline transport pilots will be rated as to competence in accordance with the provisions of the following regulations.

"23.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce and to provide for the examination and rating of civilian schools giving instruction in flying, or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers or appliances, ground instructors will be rated as to their competency for such service in accordance with the provisions of the following regulations.

"24.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, mechanics will be rated in accordance with the provisions of the following regulations.

"25.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations concerning practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, parachute riggers will be rated in accordance with the provisions of the following regulations.

"26.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, air traffic control-tower operators will be rated in accordance with the provisions of the following regulations.

"26.0 The ratings will be as follows:

"(a) Junior air traffic control tower operator rating.

"(b) Associate air traffic control tower operator rating.

"(c) Senior air traffic control tower operator rating.

"27.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, air carrier dispatchers will be certificated in accordance with the provisions of the following regulations.

"40.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom any such certificate is issued, the following regulations are prescribed for such certification of scheduled air carriers engaged in interstate and intra-territorial air transportation, as to their competency.

"40.60 *Provision for issuance.* An air carrier operating certificate will be issued by the Authority to an applicant after approval of application made and proof submitted in connection therewith, and if, upon inspection and examination, said applicant is found by the Authority to meet the general requirements prescribed in § 40.1 and the appropriate particular minimum requirements prescribed in §§ 40.2, 40.3, 40.4 and 40.5 and is, therefore, rated as competent to engage in interstate or intraterritorial air transportation, or both, for the carriage of mail, property or passengers in schedule operation as specified in the certificate or appended competency letters (provided in § 40.7). Air carriers which were conducting authorized operations on August 20, 1938, and which were possessed of a valid and effective Scheduled Airline Competency Certificate and appended competency letters issued by the Secretary of Commerce, shall have until the 31st day of March, 1939, to apply for an air carrier operating certificate as provided in § 40.61. In the interim, operations shall be conducted according to the terms, conditions, specifications and limitations of the Scheduled Airline Competency Certificate and appended competency letters issued by the Secretary of Commerce.

"40.61 *Application.* Application for an air carrier operating certificate shall be made to the Authority and subscribed under oath by the applicant, in the manner outlined in Form CAA 40-1.

"50.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aero-

nautics Authority to provide for the examination and rating of civilian schools giving instruction in flying, or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment and the competency of the instructors, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, flying schools will be rated in accordance with the provisions of the following regulations and their rating will be as follows:

"52.0 *Provision for rating.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to provide for the examination and rating of repair stations or shops for the repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers or appliances, as to the adequacy and suitability of the equipment, facilities and materials for, and methods of repair, alteration, maintenance and overhaul of aircraft, aircraft engines, propellers and appliances, and the competency of those engaged in the work or giving any instruction therein, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedures as the Authority may find necessary to provide adequately for safety in air commerce, aircraft repair stations will be rated as to their competence in various classifications of repair activity in accordance with the following provisions.

"60.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue certificates for airmen, aircraft, air carriers, air navigation facilities, and air agencies, and requiring the Authority to prescribe air traffic rules governing the flight of, and for the navigation, protection and identification of aircraft, including rules as to safe altitudes of flight and rules for the prevention of collisions between aircraft and between aircraft and land or water vehicles, and prohibiting the operation or navigation of aircraft in violation thereof, the following air traffic rules relating thereto, in addition to those prescribed elsewhere in the Civil Air Regulations, are hereby prescribed.

"61.0 *Provision for issuance.* Pursuant to the provisions of the Civil Aeronautics Act of 1938, empowering the Civil Aeronautics Authority to issue air carrier operating certificates and to establish minimum safety standards for the operation of air carriers to whom such certificates are issued, and for prohibiting the operation or navigation of aircraft of such air carriers in violation thereof, the following rules and regulations for the operation of scheduled air carriers engaged in interstate air transportation, in addition to those prescribed elsewhere in the Civil Air Regulations, are hereby prescribed."

(4) All provisions for and in connection with the registration of alien or alien-owned aircraft and those for and in connection with identified aircraft, as distinguished from registered aircraft, are hereby stricken and held void, since no provision is made for the same in the Civil Aeronautics Act of 1938, and, in this connection, the following specific amendments are made with respect to the Civil Air Regulations, heretofore issued by the Secretary of Commerce, and by this order adopted and issued:

(a) Strike all of sections 00.31, 02.200 and 02.510.

(b) Strike the words "or by the alien owner of any aircraft not registered in a foreign country," from Section 01.20.

(c) Strike that portion of Section 02.10, beginning with the words "except that the symbol cross, etc." and continuing to the end of the section, and insert in lieu thereof the phrase "of aircraft of the United States".

(d) Strike the words and figures "or symbol cross +", appearing in section 02.11.

(e) Strike the word "or", appearing between "NR" and "NX" in section 02.20, and insert in lieu thereof a comma, and after the letters "NX" insert the words and figures "or N —".

(f) Strike the words "including the Canal Zone", appearing in section 02.50, and insert in lieu thereof the words "and the several territories and possessions of the United States, including the territorial waters", and at the end of said section 02.50 add this sentence: "The aircraft of the national defense forces of the United States may possess and display identification marks, assigned and issued by the agency having jurisdiction over them, in a manner satisfactory to the Authority."

(5) The following additional specific amendments are made to the currently effective Civil Air Regulations:

(a) Parts 90 and 94 are stricken and set aside.

(b) Wherever the words "airline pilot" appear, change the same by inserting the word "transport" between the word "airline" and the word "pilot", so that the same will read "airline transport pilot".

(c) Wherever the phrase "airport control tower operator" appears, strike the same and insert in lieu thereof the phrase "air-traffic control-tower operator".

(d) Whenever the phrase "interstate or foreign air commerce" or the phrase "interstate and foreign air commerce" appears, change the same by inserting the word "overseas" between the word "interstate" and the word "or" or the word "and", as the case may be, so that the phrase will read "interstate, overseas or foreign air commerce" or "interstate, overseas and foreign air commerce", as the case may be, excepting only in section 21.40, in which section strike the phrase "interstate or foreign air commerce" and insert in lieu thereof the phrase "interstate, overseas or foreign air transportation".

(e) Strike the phrase "scheduled interstate or foreign passenger airline carrier", appearing in section 01.721, and insert in lieu thereof the phrase "scheduled interstate, overseas or foreign passenger air carrier".

(f) Strike the words "interstate air commerce", appearing in sections 40.2, 40.291 and 40.3, and insert in lieu thereof the words "interstate air transportation".

(g) After the words "navigable airspace", appearing in the first line of section 60.100, insert the words "of the United States".

(h) After the words "A control airport is an airport", appearing in the first line of section 60.102, insert the words "within the United States".

(i) Strike the words "Approved to take effect March 31, 1938, Daniel C. Roper, Secretary of Commerce (SEAL)", appearing at the conclusion of Part 60.

(j) Strike the phrase "of any provision of the Air Commerce Act or any rule or regulation issued thereunder", appearing in sections 01.2704, 01.3703, 01.4706, 01.5707, 20.37110, 20.463, 21.27110, 23.274, 25.277, 26.270, 27.277, 40.673, 40.674, and 60.884, and insert in lieu thereof the phrase "of any provision of the Civil Aeronautics Act of 1938, or any rule, regulation or order duly issued thereunder".

(k) Add the words "and orders" to the end of section 60.8900, as it is now written.

(l) Strike the number of the airway traffic control area designation appearing in each of sections 60.24200 to 60.24210, inclusive, and insert in lieu thereof a number two figures less, so that the said airway traffic control area designations will read, respectively, as follows:

Section 60.24200—Red civil airway No. 12
Section 60.24201—Red civil airway No. 14
Section 60.24202—Red civil airway No. 15
Section 60.24203—Red civil airway No. 16
Section 60.24204—Red civil airway No. 17
Section 60.24205—Red civil airway No. 19
Section 60.24206—Red civil airway No. 20
Section 60.24207—Red civil airway No. 21
Section 60.24208—Red civil airway No. 22
Section 60.24209—Red civil airway No. 23
Section 60.24210—Red civil airway No. 26

(6) The eligibility requirements for registration of aircraft in section 00.1 of Civil Air Regulations being the same as those of section 501 (b) of the Civil Aeronautics Act of 1938, registration of any aircraft (except alien or alien-owned aircraft) under the Civil Air Regulations prior to the date of this order shall be deemed to meet the requirements of section 501 (a) of the Civil Aeronautics Act of 1938, and registration certificates heretofore issued pursuant to said Civil Air Regulations (except any that may have been issued to alien or alien-owned aircraft) shall continue in full force and effect in the manner hereinafter provided. Amend section 00.6 of the currently effective Civil Air Regulations by striking the period at the end of subsection 00.6 (d), inserting in lieu thereof a comma and adding after the comma the word "or", and then by adding a subsection thereto to read as follows:

"(e) August 20, 1939 or until the expiration date of the aircraft certificate of such aircraft, whichever is the shorter period, if such registration certificate was issued pursuant to the Civil Air Regulations issued by the Secretary of Commerce, on or prior to August 20, 1938."

These regulations of the Civil Aeronautics Authority shall become effective 12:01 A. M. August 22, 1938.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

EXHIBIT "A"

Specifications of Amendments

1. Wherever the phrase "Department of Commerce" appears, strike the same and insert in lieu thereof the words "Civil Aeronautics Authority", excepting only in sections 14.203, 15.208, 15.216 and 61.3503.

(a) Strike the phrase "Department of Commerce identification mark", appearing in section 14.203, and insert in lieu thereof the phrase "Identification mark issued by the Civil Aeronautics Authority."

(b) Strike the phrase "Department of Commerce laboratory," appearing in sections 15.208 and 15.216, and insert in lieu thereof the phrase "laboratory of the Civil Aeronautics Authority."

(c) Strike the phrase "Department of Commerce requirements," appearing in section 61.3503, and insert in lieu thereof the phrase "minimum standards prescribed by the Civil Aeronautics Authority."

2. Wherever the phrase "Secretary of Commerce" appears, strike the same and insert in lieu thereof the words "Civil Aeronautics Authority", excepting only in sections 60.100, 60.102 and 60.106, in which three sections the word "Administrator" is to be inserted in lieu of the phrase "Secretary of Commerce."

(a) Wherever the word "Secretary" appears, strike the same and insert in lieu thereof the word "Authority."

(b) Strike the word "his," referring to the Secretary, and appearing in section 40.711, and insert in lieu thereof the word "its," referring to the Authority.

3. Wherever the phrase "Bureau of Air Commerce" appears, except as hereinafter specified, strike the same and insert in lieu thereof the word "Authority."

(a) Strike the phrase "Bureau of Air Commerce Approved (or A. C. A.)" appearing in sections 15.0411 and 15.042, and insert in lieu thereof the phrase "Civil Aeronautics Authority Approved (or C. A. A. A.)."

(b) Strike the phrase "Bureau of Air Commerce Type Certificate (or A. C. T. C.)," appearing in section 15.042, and insert in lieu thereof the phrase "Civil Aeronautics Authority Type Certificate (or C. A. A. T. C.)."

(c) Strike the phrase "Bureau of Air Commerce Manual (ACM 18)," appearing in section 18.20, and insert in lieu thereof the phrase "Civil Aeronautics Authority Manual (C. A. A. M. 18)."

4. Wherever the word "Bureau" appears, except as hereinafter provided, strike the same and insert in lieu thereof the word "Authority."

(a) Wherever the words "Bureau inspector" appear, strike the same and insert in lieu thereof the phrase "inspector of the Authority."

(b) Strike the words "Bureau medical examiner," appearing in section 20.149, and insert in lieu thereof the phrase "medical examiner of the Authority."

(c) Strike the words "Bureau test," appearing in sections 21.140 and 26.1040, and insert in lieu thereof the phrase "test prescribed by the Authority."

(d) Strike the words "Bureau representative" appearing in section 26.1170, and insert in lieu thereof the phrase "representative of the Authority."

(e) Strike the words "local Bureau airline inspector," appearing at end of section 27.220, and insert in lieu thereof the phrase "local air carrier inspector of the Authority."

(f) Strike the words "Bureau airway traffic control station," appearing in section 60.134, and insert in lieu thereof the phrase "airway traffic control station of the Authority."

(g) Strike the words "Bureau communications facilities," appearing in the Note to section 60.43, and insert in lieu thereof the phrase "communications facilities of the Authority."

(h) Strike the words "Bureau radio voice communication station," appearing in section 60.571, and insert in lieu thereof the phrase "radio voice communication station of the Authority."

(i) Strike the words "Bureau supervising aeronautical inspectors," appearing in sections 60.83 and 60.84, and insert in lieu thereof the phrase "supervising aeronautical inspector of the Authority."

5. Wherever the words "Air Commerce Act" appear, strike the same and insert in lieu thereof the words "Civil Aeronautics Act of 1938," excepting only in sections 02.51 and 60.100.

6. Wherever the abbreviation "AC" appears, strike the same and insert in lieu thereof the abbreviation "CAA."

7. Wherever the abbreviation "ACM" appears, strike the same and insert in lieu thereof the abbreviation "CAAM."

8. Wherever the word "airline" appears, except as hereinafter provided, strike the same and insert in lieu thereof the words "air carrier."

(a) Strike the caption to Part 40, and substitute in lieu thereof the caption "Air Carrier Operating Certification (Interstate)."

(b) Wherever the words "airline competency certificate" or "airline certificate" appear, strike the same and insert in lieu thereof the words "air carrier operating certificate."

(c) Wherever the words "temporary permit" appear, strike the same and insert in lieu thereof the words "temporary air carrier operating certificate."

(d) Wherever the words "airline service" appear, strike the same and insert in lieu thereof the words "air transportation service."

(e) Wherever the phrase "airline maintenance inspector of the Bureau of Air Commerce" appears, strike the same and insert in lieu thereof the phrase "air carrier maintenance inspector of the Authority."

(f) Wherever the words "airline operator" appear, strike the same and insert in lieu thereof the words "air carrier."

(g) Wherever the words "airline carrier" appear, strike the same and insert in lieu thereof the words "air carrier", excepting only in sections 04.51, 04.52, 04.53, 04.71, 04.723, 04.73, 04.734 and 04.740.

(1) Strike the words "Non-airline carrier (NAC) airplanes", appearing in section 04.51, and insert in lieu thereof the words "Non-air carrier (NAC) airplanes."

(2) Strike the words "non-airline carrier airplanes," appearing in section 04.740, and insert in lieu thereof the words "non-air-carrier airplanes."

(3) Strike the words "airline carriers", appearing in sections 04.52, 04.53, 04.71, 04.723, 04.73 and 04.734, and insert in lieu thereof the words "air carrier airplanes."

(h) Strike the words "airline passenger carriers", appearing in section 04.53, and

insert in lieu thereof the phrase "by an air carrier in passenger service."

(i) Strike the words "Each airline forward light", appearing in section 15.2041, and insert in lieu thereof the phrase "Each forward light of an air carrier airplane."

(j) Strike the word "airline," appearing at the end of section 40.14, and insert in lieu thereof the words "air carrier operations."

(k) Strike the word "airline," appearing in section 61.3512, and insert in lieu thereof the words "air carrier's route."

(l) Wherever the words "operator" appear, in Part 40, strike the same and insert in lieu thereof the words "air carrier."

[F. R. Doc. 38-2454; Filed, August 20, 1938; 3:00 p. m.]

[General Order 610-A-1]

POSTPONING THE EFFECTIVE DATE OF SUB-SECTION (A) OF SECTION 610 OF THE CIVIL AERONAUTICS ACT OF 1938, WITH RESPECT TO CERTAIN SPECIFIED CLASSES OF AIRMEN

EXEMPTING CERTAIN FOREIGN AIRCRAFT AND AIRMEN FROM THE PROVISIONS OF SUB-SECTION (B) OF SECTION 610 OF SAID ACT

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 20th day of August, 1938.

Pursuant to the provisions of the Air Commerce Act of 1926, as amended, the Secretary of Commerce has heretofore issued certificates of competency to various classes of airmen described in section 9 (k) of that Act. Section 1 (6) of the Civil Aeronautics Act of 1938 enlarges the definition of the word "airman" in such manner that various classes of persons are made subject to the requirements of the new Act, notably all individuals who are directly in charge of the maintenance of aircraft and those in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers, or appliances (as the latter word is defined in section 1 (11) of said Act), and all individuals who serve in the capacity of aircraft dispatchers or air-traffic control-tower operators. The provisions of clause 2, of section 610 (a), make it unlawful after the effective date of that section for any person to serve in any capacity as an airman, in connection with any civil aircraft used in air commerce, without an airman certificate authorizing him to serve in such capacity. The provisions of clause 3 of said section make is unlawful for any person to employ for service, in connection with any civil aircraft used in air commerce, an airman who does not have an airman certificate authorizing him to serve in the capacity for which he is employed.

Section 1110 of the Civil Aeronautics Act of 1938 authorizes the Authority to postpone the effective date of the aforesaid provisions of said Act, if it finds such action necessary or desirable in the public interest. Subsection (b) of said section 610 further authorizes the Authority to exempt foreign aircraft and airmen, serving in connection therewith, from the provisions of sub-section (a) of said section, to the extent and upon such terms and conditions as may be prescribed by the Authority as being in the interest of the public.

The examination of all persons who apply for airman certificates is a matter of great importance to safety in air navigation, and it is highly desirable that the provisions of clauses 2 and 3 of section 610 (a) of the Act shall not become effective until the Authority has had adequate opportunity to provide for careful and painstaking examination of all classes of airmen who have not heretofore been required to secure certificates of competency issued by the Secretary of Commerce. It therefore finds it desirable in the public interest that the aforesaid clauses of said section shall be postponed as to all classes of airmen who have not heretofore been required to secure certificates of competency to the extent and in the manner provided in this order.

The Authority is advised that all aircraft, operated by foreign air carriers, and the airmen serving in connection therewith, now engaged in scheduled air transportation within the United States or its possessions, are certificated as required by international convention or agreement, to which the United States is a party. While such circumstances continue in effect, it is undesirable that the provisions of section 610 (a) shall be made applicable to such foreign air carriers insofar as the provisions of said section impose new or larger obligations upon such foreign aircraft or the airmen serving in connection therewith.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 1110 and 610 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1030 and 1012) hereby makes and promulgates this general order as follows:

General Order 610-A-1.—Postponement of effective date of certain provisions of section 610 as to certain airmen and carriers and exempting foreign air carriers from certain provisions of said section.

1. The effective date of the provisions of clause 2 of sub-section (a) of section 610 of the Civil Aeronautics Act of 1938, insofar as the same make it unlawful for any person to serve as an airman, as defined in said Act, who would not have been required on or prior to August 21, 1938, to procure a Certificate of Competency to perform similar functions, and the effective date of clause 3 of said section insofar as its provisions are applicable to the employment of any such airman, are hereby postponed to and including the 180th day after June 23, 1938.

2. Until further order of the Authority, any and all foreign aircraft and airmen serving in connection therewith, shall be exempt from any and all requirements of sub-section (a) of section 610, insofar, but only insofar, as the provisions of said section would impose new or larger obligations and duties upon such foreign aircraft or airmen serving in connection therewith than those to which they were subject on August 21, 1938: *Provided, however,* That this order shall not exempt any such persons from any provisions of the air traffic rules applicable to aeronautical operations within the United States.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-2455; Filed, August 20, 1938; 3:01 p. m.]

[General Order 1107-K-1]

POSTPONING REPEAL OF CERTAIN PROVISIONS OF THE AIR MAIL ACT OF 1934, AS AMENDED

At a session of the Civil Aeronautics Authority, held at its office in Washington, D. C., on the 20th day of August, 1938.

Section 1107 (k) of the Civil Aeronautics Act of 1938 repeals the provisions of section 3 of the Air Mail Act of 1934, as amended. Section 1110 of the Civil Aeronautics Act authorizes the Authority to postpone the effective date of the aforesaid provisions of the said Act if it finds such action necessary or desirable in the public interest.

Section 405 (a) of the Civil Aeronautics Act of 1938 provides that each contract between the United States and any person for the carriage of mail, entered into or continued under the provisions of the Air Mail Act of 1934, as amended, shall be continued in effect until canceled in accordance with the provisions of such sub-section, to-wit, the issuance to the holder of such contract of a Certificate of Convenience and Necessity.

Representatives of the Post Office Department and of the air mail contractors, after conference, have agreed that, pending the establishment of a new basis of compensation for the transportation of air mail by the present air mail contractors, after the issuance to them of Certificates of Convenience and Necessity, the past practices of that Department and of the air carriers with regard to "pay trips" and "credit trips" shall continue, and have recommended that the effective date of section 1107 (k) of the Civil Aeronautics Act of 1938 be postponed for 150 days after June 23, 1938, insofar as such sub-section repeals the portion of section 3 (f) of the Air Mail Act of 1934, as amended, hereinafter referred to.

The Civil Aeronautics Authority, having duly considered the matter and being of the opinion that no interest of the public will be adversely affected by the postponement of the provisions of this Act which is to be effected by this order, and finding that its action in such respects is desirable in the public interest, and acting pursuant to the authority vested in it by the provisions of section 1110 of the Civil Aeronautics Act of 1938 (52 Stat. 973, 1035), hereby makes and promulgates the following general order:

General Order 1107–K–1.—Postponing repeal of certain provisions of the Air Mail Act.

The effective date of section 1107 (k) of the Civil Aeronautics Act of 1938 is hereby postponed until the 150th day after June 23, 1938, insofar as such subsection repeals the following portion of section 3 (f) of the Air Mail Act of 1934, as amended:

"The Postmaster General may, upon application by an air-mail contractor, authorize said contractor for his own convenience to transport air mail on any nonmail schedule or plane, with the understanding that the weights of mail so transported will be credited to regular mail schedules and no mileage compensation will be claimed therefor."

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38–2456; Filed, August 20, 1938; 3:02 p.m.

TITLE 15—COMMERCE

NATIONAL BITUMINOUS COAL COMMISSION

[Order No. 249]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 2, 3, 4 AND 5 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES AND SIZES OF COAL PRODUCED IN SAID DISTRICTS; AND PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, and National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the areas defined in said Act as Minimum Price Areas 2 (Districts Nos. 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren and McMinn Counties in Tennessee), 4 (District No. 14) and 5 (District No. 15) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced in said district by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the authority conferred by said Act.

A schedule of such proposed minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted to the Commission by each district board within Minimum Price Areas 2 (Districts Nos. 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren and McMinn Counties in Tennessee), 4 (District No. 14), and 5 (District No. 15) on or before the 14th day of September 1938, and after hearing the Commission may approve, disapprove or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The minimum prices as approved or modified by the Commission shall serve as the basis for the coordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adapted and approved by the Commission therefor:

RULES AND REGULATIONS FOR THE PROPOSAL OF MINIMUM PRICES

I. Each district board, within 25 days following the issuance of this order directing the district boards to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Each district board shall transmit its schedule of proposed minimum prices to each code member in the district at least fifteen (15) days before the district board files such schedule with the Commission pursuant to Rule I of the Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each code member in the district and the filing thereof with the Commission, each district board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, each district board may arrange to receive protests of code members within the district, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protests of code members shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by a district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in the district not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each district board submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such submission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Each district board shall transmit to each other district board five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by any district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the district equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which the district is included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the district.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the district, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the subdistrict in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical List of Code Members Showing Price Classifications by Sizes for All Uses Except as Separately Shown

Company	Mine	Sub-district	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	#3	A	B	C	D	E
Jones Coal Company	White	Coke	#6	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in the district for the use indicated.
B—Represents the next highest quality coal.
C—Etc.
In addition thereto the district board may include a similar listing subdivided according to producing subdistricts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

SIZE GROUPS

Classification	1	2	3	4	5, etc.
A	2.75	2.65	2.55	2.45	2.35
B	2.65	2.55	2.45	2.35	2.25
C	2.55	2.45	2.35	2.25	2.15

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained therein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained therein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the Minimum Price Area named herein.

By order of the Commission.
Dated this 20th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2469; Filed, August 22, 1938; 12:12 p. m.]

[Order No. 250]

AN ORDER DIRECTING THE SEVERAL DISTRICT BOARDS WITHIN MINIMUM PRICE AREAS 2, 3, 4 AND 5 TO PROPOSE REASONABLE RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY THE CODE MEMBERS OF THE RESPECTIVE DISTRICTS, IN ACCORDANCE WITH SUBSECTION (A) SECTION 4, PART II OF THE BITUMINOUS COAL ACT OF 1937

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That each district board within the Areas defined in said Act as Minimum Price Areas 2 (Districts 9, 10, 11 and 12), 3 (District No. 13, except Van Buren, Warren, and McMinn Counties in Tennessee), 4 (District No. 14), and 5 (District No. 15) shall forthwith proceed to consider and shall propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coal by the code members of the respective districts.

Such proposed rules and regulations shall not be inconsistent with the requirements of Section 4 of the Act and shall conform to the standards of fair competition therein established.

2. Such proposed rules and regulations, together with a statement of the reasons therefor, shall be submitted to the Commission by each of the aforesaid district boards on or before the 14th day of September 1938, in order that the Commission, after hearing, may approve, disapprove, or modify the same for the purpose of coordination.

3. Each district board shall transmit such proposed rules and regulations to each code member in its respective district at least fifteen days before said district board files such proposed rules and regulations with the Commission, and during the interim between the transmittal of such proposed rules and regulations to the code members and the filing of same with the Commission, each district board may make such changes in said proposals as in its judgment it may deem proper, and to this end, each district board may arrange to receive protests of its code members, conduct such investigations, conferences or hearings as in its judgment will assist it in proposing such reasonable rules and regulations as will best serve to carry out the purposes of the Act. Protests of code members shall be filed with the district Board within seven days from the date of the transmittal to the code members.

4. Any changes made by a district board in its proposed rules and regulations, after the time of such transmittal to the code members, shall be forwarded to each code member in the district not later than the date of the submission thereof to the Commission.

5. Each district board shall file with the Commission, at the time set forth in paragraph two hereof, one hundred (100) copies of its proposed rules and regulations, and, at the same time, the district board shall transmit to each of the other district boards five copies of its proposals.

6. The Secretary of the Commission is directed to publish forthwith a copy of this order in the FEDERAL REGISTER and to mail a copy of this order to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within the minimum price area named herein.

By order of the Commission.
Dated this 20th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2470; Filed, August 22, 1938; 12:12 p. m.]

[Order No. 251]

AN ORDER DIRECTING DISTRICT NO. 13 TO PROPOSE MINIMUM PRICES FOR THE KINDS, QUALITIES, AND SIZES OF COAL PRODUCED BY CODE MEMBERS IN VAN BUREN, WARREN, AND MCMINN COUNTIES IN TENNESSEE: AND PROMULGATING AND APPROVING RULES AND REGULATIONS GOVERNING THE PROCEDURE THEREFOR

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders and directs:

1. That District Board No. 13 within the area defined as Minimum Price Area 1 (Van Buren, Warren, and McMinn Counties, in Tennessee) shall forthwith proceed to consider and shall propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced in said counties by code members, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as may be deemed proper and within the authority conferred by said Act.

A schedule of such proposed minimum prices shall be submitted to the Commission by District Board for District No. 13 on or before the 6th day of September, 1938, and after hearing the Commission may approve, disapprove, or modify such proposed minimum prices to conform with the requirements of subsection (a) of Part II, Section 4 of the Act. The minimum prices as approved or modified by the Commission shall serve as the basis for the co-ordination provided for in subsection (b) of Part II, Section 4 of the Act.

2. That the procedure for the proposal of minimum prices herein ordered and directed shall be in accordance with the following rules and regulations, which are hereby adopted and approved by the Commission therefor:

RULES AND REGULATIONS FOR THE PROPOSAL OF MINIMUM PRICES

1. District Board for District No. 13, within 17 days following the issuance of this order directing said District Board

to propose minimum prices authorized by subsection (a) of Part II, Section 4 of the Act, shall propose minimum prices by submitting to the Commission within said time a schedule of such proposed minimum prices together with all the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship.

II. All minimum prices proposed hereunder shall be f. o. b. transportation facilities at the mine, for the kinds, qualities and sizes of coal for which prices are proposed.

III. Said District Board shall transmit its schedule of proposed minimum prices to each Code member in said counties at least seven (7) days before the District Board files such schedules with the Commission pursuant to Rule I of these Rules and Regulations.

IV. During the interim between transmitting its schedule of proposed minimum prices to each Code member in said counties and the filing thereof with the Commission, said District Board may make such changes or corrections in such schedule as in its judgment it deems proper.

To this end, said district board may arrange to receive protests of code members within said counties, conduct such investigations and hold conferences or hearings, as in the judgment of the district board will assist it in formulating the schedule of proposed minimum prices in conformity with the requirements of subsection (a) of Part II, Section 4 of the Act. Any protest of code member shall be filed with the district board within seven (7) days from the date of transmission of its schedule of proposed minimum prices to code members.

V. Any changes or corrections made by said district board in its schedule pursuant to the rules and regulations herein shall be transmitted to each code member in said counties not later than the date of submission of the schedule of proposed minimum prices to the Commission pursuant to Rule I hereof.

VI. Each said district board in submitting its schedule of proposed minimum prices to the Commission pursuant to the requirements of Rule I hereof shall, at the time of making such admission, file with the Commission one hundred (100) full and complete copies of such schedule, as changed or corrected, for such use as the Commission may deem proper.

VII. Said district board shall transmit to each other district board within Minimum Price Area 1 (Districts Nos. 1 to 8, inclusive) five (5) copies of its schedule of proposed minimum prices at the time of filing with the Commission pursuant to Rule I hereof.

VIII. The minimum prices proposed by said district board shall conform to the following standards therefor set out in subsection (a) of Part II, Section 4 of the Act:

a. They shall yield a return for the tonnage of the code members within said counties equal as nearly as may be to the weighted average of the total costs, per net ton, of the tonnage of Minimum Price Area 1, within which said counties are included, as such weighted average of the total costs shall theretofore have been determined by the Commission pursuant to the provision of subsection (a) of Part II, Section 4 of the Act.

b. They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of the coal to which they are applicable.

c. They shall be just and equitable as between producers within the said counties.

d. They shall have due regard to the interests of the consuming public.

e. They shall be just and equitable as between producers within the said counties, for any kind, quality or size of coal for shipment into any consuming market area.

f. They shall not permit dumping.

IX. Each price schedule submitted in conformity with Rule I hereof shall contain an alphabetical list of code members. Opposite each code member's name shall be shown the name of the mine, the sub-district in which it is located, the seam or kind of coal produced and the price classification (represented by an alphabetical letter), in each size group (which size group shall be represented by a number), for all sizes applicable to such group that the mine is equipped to produce. As an example:

Alphabetical List of Code Members Showing Price Classifications by Sizes for all Uses Except as Separately Shown

Company	Mine	Subdistrict	Size groups					
			Seam	1	2	3	4	Etc.
Adams Coal Company	Black	Coal	63	A	B	C	D	E
Jones Coal Company	White	Coke	60	B	C	B	A	B
Smith Coal Company	Red	Iron	B	E	D	C	E	A
Williams Coal Company	Green	Glass	E	G	G	G	G	G

A—Represents the highest quality coal produced in Van Buren, Warren, and McMinn Counties, in Tennessee for the use indicated.
B—Represents the next highest quality coal.
C—Etc.

In addition thereto the district board may include a similar listing subdivided according to producing subdistricts or according to any other subdivision desired.

Prices applicable to such classification shall be listed in a table similar to the following:

SIZE GROUPS

Classification	1	2	3	4	5, etc.
A	2.75	2.65	2.55	2.45	2.35
B	2.65	2.55	2.45	2.35	2.25
C	2.55	2.45	2.35	2.25	2.15

Each schedule of proposed prices shall include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within the counties of Van Buren, Warren, and McMinn, in Tennessee, into consuming markets of all code members. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

The Secretary of the Commission is directed forthwith to publish a copy of this order and the rules and regulations contained therein in the FEDERAL REGISTER and to mail a copy of this order and the rules and regulations contained therein to the Consumers' Counsel, to the Secretary of each District Board, and to each code member within Minimum Price Area 1.

By order of the Commission.

Dated this 20th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH,
Secretary.

[F. R. Doc. 38-2471; Filed, August 22, 1938; 12:12 p. m.]

AMENDMENT TO RULE VII OF THE RULES OF PRACTICE AND PROCEDURE BEFORE THE COMMISSION AS AMENDED

At a regular session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 19th day of August 1938.

By virtue of the authority vested in it by the Bituminous Coal Act of 1937, (50 Stat. 72; 15 U. S. C., Sup. III, 828) The National Bituminous Coal Commission hereby adopts the following amendment to Sec. 466.07[1] of the Rules of Practice and Procedure before the Commission as promulgated June 23, 1937,[2] and as amended November 5, 1937, May 7, 1938 and June 6, 1938, (Sec. 466.01–466.27).

Section 466.07 shall be and hereby is amended to read as follows:

SECTION 466.071[3]—SECTION 4–A EXEMPTIONS

a. *Applications*—Applicants seeking a determination of the status of their coal, in accordance with the second paragraph of section 4–2 of the Act, shall file an application setting forth the facts upon which the claim is based. This application shall be known as an "Application for Determination of Status."

1. The application shall be made to conform to all pertinent rules of practice and procedure of the Commission. Any application failing to comply fully therewith shall not be considered by the Com-

[1] 3 F. R. 1842 DI.
[2] 2 F. R. 1121 (1340 DI).
[3] Sec. 466.071 issued under authority contained in Sec. 2 (a), 50 Stat. 72; 15 U. S. C. Sup. III, 827.

mission, but shall be returned to the applicant by the Secretary of the Commission with a brief statement of the respect in which the application is defective.

2. Upon receipt of an application for determination of status under Section 4-A, the Commission will send notice of the filing of the application to each District Board and to any other persons or parties who, in the opinion of the Commission, have a proper interest therein. Copies of the application may be obtained from the Secretary of the Commission.

b. *Intrastate allegations.*—Applications for a determination of status, which are predicated on the claim that applicant's coal is not subject to an order of the Commission issued after a hearing pursuant to the first paragraph of Section 4-A will be considered defective and returned to applicant, unless they contain or set forth as fully as possible statements of the following matters:

1. The full name and address of the applicant, the legal status of the applicant (i. e., individual, partnership, unincorporated association; if a corporation, recite the state of incorporation); and applicant's interest in the mine or mines which produce the coal covered by the application.

2. The name and exact location, by city or town and county, of the mine (or mines) involved and the District in which the mine is located.

3. The name of the seam mined, the grades and sizes of coal produced, and the tonnage of each size produced for one year immediately preceding the date of application for determination of status. (If no exact figures are available, applicant shall state the approximate tonnage.)

4. Transactions in coal claimed to be exempt shall be specifically described and the tonnage stated as accurately as possible.

5. A concise statement of the facts relied upon by applicant to show that the sale and distribution of the coal in question does not come within the class covered by the order of the Commission issued pursuant to the first paragraph of Section 4-A.

6. An appendix, showing for the period of one year immediately preceding the filing of the application:

(a) As to *interstate commerce* in coal:

(1) The tonnage by sizes shipped to each state, showing the means of transportation, whether by rail, truck or water;

(2) The use or uses for which each such tonnage was sold, and the tonnage of each such use.

(b) As to *intrastate commerce* in coal:

(1) The tonnage by sizes shipped to each destination, showing the means of transportation, whether by rail, truck, or water;

(2) The use or uses for which each such tonnage was sold, and the tonnage of each such use;

(3) The aggregate tonnage by sizes sold and delivered to each of the following classes of purchasers at each destination (as shown under (b) (1)): retailers, wholesalers, sales agents, truckers, railroads, cooperatives, and ultimate consumers.

c. *Producer-consumer allegations.*—Applications for a determination of status which are predicated on the claim that applicant's coal is of the class described in Section 4-II (1) of the Act will be considered defective and returned to the applicant, unless they contain or set forth, as fully as possible, statements of the following matters:

1. The full name and address of the applicant, and the legal status of the applicant, (i. e., individual, partnership, unincorporated association; if a corporation, recite the state of incorporation); also statement of principal business of the applicant and applicant's interest in the mine (or mines) producing the coal for which exemption is claimed.

2. The name and exact location by city or town, and county, of the mine (or mines) involved and the District in which the mine is located.

3. Statement of annual production for each of the three years immediately preceding the date of filing of application.

4. Statement showing tonnage, destinations, and uses of coal produced and consumed by applicant for the twelve months preceding the application.

In the event the Commission enters an order granting an application, the applicant will be required to apply annually thereafter, and at such other times as the Commission may require, for renewal of the order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in the order continue to exist.

d. *Filing of application.*—An original and twenty (20) conformed copies, typewritten as provided in Rule XII, shall be filed with the Commission.

e. *Filing date.*—An application shall be deemed to have been filed when it is received by the Commission, if it conforms to the requirements of Section A-1 of this Rule.

f. *Subscription and verification.*—Every application shall be subscribed and verified under oath in accordance with the provisions of Rule VI g.

g. *Withdrawals.*—The withdrawal of an application for exemption shall constitute a waiver of any exemption which might otherwise become effective during the pendency of a subsequent application except upon a showing of a material change of facts.

h. *Granting application without hearing.*—When any application is determined by the Commission without a hearing pursuant to Section 4-A of the Act, such determination shall become effective fifteen (15) days from the date thereof, unless any interested party protests the determination and requests a hearing.

If such protest and request for hearing is made, the Commission shall hold a hearing on the application and protest as provided in Rule VII j.

1. *Protest.*—Protests and request for hearing, on any Application for Determination of Status, shall be subscribed and verified by the protestant and in addition to complying with the other pertinent provisions of these Rules, shall contain:

(a) A statement of protestant's interest in the matter;

(b) A terse yet complete statement of facts which protestant expects to prove at the hearing.

2. *Service of Protest.*—A copy of the protest shall be served on the applicant, and proof of service thereof shall be filed with the Commission.

i. *Parties in interest.*—The District Board for the District in which applicant's mine (or mines) are located, the District Boards for Districts in which coal is produced, for sale and consumption in the same markets as those of applicant's coal, and any other person or party who would be directly affected by the granting of the application by the Commission, may be made parties in interest, in the discretion of the Commission.

j. *Designation of application for hearing.*—When the Commission grants a hearing pursuant to the second paragraph of Section 4-A of the Act, the following procedure will govern:

1. Within fifteen (15) days from the date of the issuance of notice of the hearing, the applicant or other interested parties shall file with the Commission a concise statement in writing of the facts expected to be proved at the hearing. Other interested parties shall also file a written intervention in compliance with Rule VIII. The statement of facts shall be considered as a pleading and not as evidence of the facts therein stated. The affirmative evidence adduced by the parties at the hearing shall be limited to the said statement of facts.

2. If no written statement of the facts expected to be proved at the hearing is filed by the applicant within the fifteen (15) day period, in the absence of extenuating circumstances, the application shall be deemed to have been withdrawn on the expiration of said period, in accordance with the provisions of Section VII g.

3. If the applicant does not appear and offer evidence in support of his statement of facts, in the absence of extenuating circumstances, the appli-

cation shall be deemed to have been withdrawn, in accordance with the provisions of Section VII g.

4. The burden of proof in all cases shall be on the applicant.

By Order of the Commission.
Dated this 19th day of August 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-2472; Filed, August 22, 1938; 12:13 p. m.]

[General Docket No. 15]

ORDER IN THE MATTER OF THE ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS—DETERMINATION OF WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE PRODUCED WITHIN MINIMUM PRICE AREAS 2, 3, 4, AND 5

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 19th day of August, 1938.

The Commission, by its Order No. 240, dated April 19, 1938,[1] having directed each District Board to determine the weighted average of the total costs of the ascertainable tonnage produced within its respective district in the calendar year 1936; and to adjust the average cost so determined as may be necessary to give effect to any changes substantially affecting costs, exclusive of seasonal changes, which may have been established since January 1, 1936; and directing that such determinations be submitted to the Commission together with the computations upon which they are based; and

District Boards Nos. 9, 10, 11, and 12 within Minimum Price Area 2, District Board No. 13 within Minimum Price Area 3, District Board No. 14 within Minimum Price Area 4, and District Board No. 15 within Minimum Price Area 5, having made such determinations and having submitted them together with the data upon which they were computed, to the Commission, pursuant to said Order No. 240, and

The Commission on the 25th day of May, 1938, having instituted the above entitled proceedings, for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937, and having thereafter, upon the 27th day of June, 1938, directed[2] that a hearing be held commencing on the 13th day of July, 1938 at 10:00 A. M., in the Hearing Room of the Commission at 15th and Eye Streets, N.W., Washington, D. C. for the purpose of receiving evidence relating to the weighted average of the total costs per net ton of the tonnage of bituminous coal produced in the calendar year 1936, in each of Districts Nos. 9, 10, 11, 12, 14, 15, and so much of District No. 13 as is within Minimum Price Area 3, and evidence relating to any change or changes in wage rates, hours of employment, or other factors, exclusive of seasonal changes, substantially affecting costs, which may have been established since January 1, 1936 in each of said Districts, to enable the Commission to determine the weighted average of the total costs of the tonnage for Minimum Price Areas 2, 3, 4, and 5, as adjusted, within the meaning of Section 4, Part II, of the Act, and due public notice of said hearing having been given, and

This matter having been heard before the Commission at the time and place aforesaid, and all interested parties having been afforded an opportunity to be heard, and

The Commission being fully advised in the premises, and having made "Findings of Fact and Conclusions", which are filed herewith,

Now, therefore, Pursuant to Act of Congress entitled "An Act to Regulate Interstate Commerce in Bituminous Coal, and for other Purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission *Hereby Determines,* in conformity with the "Findings of Fact and Conclusions" made and filed herein, that the weighted average of the total costs of the tonnage for each Minimum Price Area, as hereinafter set forth, in the calendar year 1936, adjusted so as to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, reflecting as accurately as possible any change or changes which have been established since January 1, 1936 as follows:

Minimum Price Area 2 (Districts Nos. 9, 10, 11, and 12)—$1.772 per net ton.
Minimum Price Area 3 (District No. 13)—$2.474 per net ton.
Minimum Price Area 4 (District No. 14)—$3.617 per net ton.
Minimum Price Area 5 (District No. 15)—$2.049 per net ton.

It is therefore ordered, That the weighted average of the total costs, as herein determined, shall be taken as the basis, to be effective until changed by the Commission, for the proposal and establishment of minimum prices in accordance with further order of the Commission.

It is further ordered, That the Secretary of the Commission be and he is hereby directed to cause forthwith a copy of this order to be mailed to the Secretary of each District Board and to the Consumers' Counsel, and to cause a copy hereof to be published in the FEDERAL REGISTER; and the Secretary of the Commission is further directed forthwith to cause to be made available to the public the weighted average figures of total costs determined as aforesaid, and to place for public inspection in each of the Statistical Bureaus within the aforesaid Minimum Price Areas 2, 3, 4, and 5 and at the office of the Secretary of the Commission at Washington, D. C., three (3) copies of this order and the "Findings of Fact and Conclusions" upon which the order is based, and one (1) copy of the official transcript of the evidence upon which said "Findings of Fact and Conclusions" are predicated.

By order of the Commission.
Dated this 19th day of August, 1938.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 38-2473; Filed, August 22, 1938; 12:13 p. m.]

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[1] 3 F. R. 935 DI.
[2] 3 F. R. 1457 DI.

TITLE 16—COMPETITIVE PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 2132]

IN THE MATTER OF IRVING ROY JACOBSEN ET AL.

SEC. 3.6 (i). *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e). *Offering deceptives inducements to purchase—Free goods.*—Falsely representing that any books offered and sold by respondent will be given free of cost to purchasers or that a certain number thereof have been reserved to be given free to selected persons for advertising or other purpose, or that purchasers are paying only for a loose-leaf extension service to keep the books up to date, prohibited. Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV; sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (r) (7). *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.69 (c) (5). *Misrepresenting oneself and goods—Prices—Usual as reduced.* Falsely representing usual retail price at which respondent's publications are sold as higher than price at which they are offered in advertisements or otherwise, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (1). *Advertising falsely or misleadingly — Indorsements and testimonials:* SEC. 3.18. *Claiming indorsements or testimonials falsely.*—Falsely representing that any person has given testimonials or recommendations for respondent's books, or publishing, as thus made, any such testimonials, etc., prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

SEC. 3.6 (ee). *Advertising falsely or misleadingly — Terms and conditions:* SEC. 3.72 (n) (1). *Offering deceptive inducements to purchase—Terms and conditions.*—Representing that purchasers

of respondent's books have ten years, or any other period of time, to pay therefore, when such is not the fact, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Irving Roy Jacobson et al., Docket 2132, August 10, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF IRVING ROY JACOBSON AND PROGRESSIVE EDUCATION SOCIETY, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the second amended and supplemental complaint of the Commission and the answer filed herein on the 29th day of June, A. D. 1938, admitting all the material allegations of the said complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Irving Roy Jacobson and Progressive Education Society, Inc., and its officers, and their respective representatives, agents and employees, in connection with the offering for sale, sale and distribution of any books, set of books or publications in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Advertising or representing in any manner to purchasers or prospective purchasers that any books or set of books offered for sale and sold by them will be given free of cost to said purchasers or prospective purchasers, when such is not the fact

2. Advertising or representing in any manner that a certain number of sets or any set of books offered for sale and sold by them has been reserved to be given away free of cost to selected persons as a means of advertising, or for any other purpose, when such is not the fact.

3. Advertising or representing in any manner that purchasers or prospective purchasers of respondents' books or publications are only buying or paying for a Loose Leaf Extension Service intended to keep the set of books up to date for a period of ten years, or any other period, when such is not the fact.

4. Advertising or representing in any manner that the usual retail price at which respondents' publications are sold is higher than the price at which they are offered in such advertisements or by such representations, when such is not the fact.

5. Advertising or representing that any person has given testimonials or recommendations for and concerning respondents' books or publications, when such is not the fact.

6. Publishing or causing to be published and circulated testimonials or recommendations of and concerning the respondents' books or publications alleged to have been made by any person, when such testimonials or recommendations have not been made by such person.

7. Advertising or representing in any manner to purchasers or prospective purchasers of any book or set of books that they have ten years, or any other period of time, to pay for the same, when such is not the fact.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2467; Filed, August 22, 1938; 11:55 a. m.]

[Docket No. 3349]

IN THE MATTER OF COOPERATIVE LIBRARY COMPANY

SEC. 3.6 (i). *Advertising falsely or misleadingly—Free goods or service:* SEC. 3.72 (e). *Offering deceptive inducements to purchase—Free goods.*—Representing that respondent's reference books are given away free, provided purchaser subscribes at same time to loose-leaf extension service for period of years, or that subscribed will receive additional book or copy each year for succeeding period to accommodate such loose-leaf service, when such is not the case, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (r) (7). *Advertising falsely or misleadingly—Prices—Usual as reduced:* SEC. 3.69 (c) (5). *Misrepresenting oneself and goods—Prices—Usual as reduced.*—Representing that selling price of respondent's reference books is $9.50, or any other sum less than usual price, provided purchaser subscribes at same time for loose-leaf extension service for period of years, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (ee). *Advertising falsely or misleadingly — Terms and conditions:* SEC. 3.72 (n) (1). *Offering deceptive inducements to purchase—Terms and conditions.*—Representing that subscriber will be credited with $5.00, or any other sum, for each set of respondent's books sold in community where subscriber resides, or that said books will be sent out for approval, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company Docket 3349, August 10, 1938.]

SEC. 3.6 (l). *Advertising falsely or misleadingly—Indorsements and testimonials:* SEC. 3.18 *Claiming indorsements or testimonials falsely.*—Representing that respondent's reference books have been recommended by local county school superintendent, or American Library Association, or subscriber's immediate superior, or any other individual, when such is not the case, prohibited. Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (n) (2). *Advertising falsely or misleadingly—Nature—Product:* SEC. 3.69 (b) (8). *Misrepresenting oneself and goods — Goods — Nature.* — Representing that respondent's books are modern and up-to-date, or are prepared especially for high school teachers, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

SEC. 3.6 (a) (18). *Advertising falsely or misleadingly—Business status, advantages or connections—Non-profit character:* SEC. 3.96 (b) (4). *Using misleading name—Vendor—Non-profit character.*—Representing, through use of trade name, Cooperative Library Company, or other name of similar import and effect, or otherwise, that respondent's business is cooperative library enterprise, or other than private, for-profit business, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b.) [Cease and desist order, Cooperative Library Company, Docket 3349, August 10, 1938.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of August, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MELVIN HINER, AS INDIVIDUAL, TRADING AS COOPERATIVE LIBRARY COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in the complaint, and that without further evidence or other

[1] 3 F. R. 1370 DI.

intervening procedure the case may proceed to final hearing upon the record, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Melvin Hiner, an individual trading as Cooperative Library Company, or trading under any other name, his representatives, agents and employees, in connection with the offering for sale, sale and distribution of reference books now designated "American Educator Encyclopedia in Ten Volumes", or of the same or like books, whether sold under that name or any other name or title, in interstate commerce and in the District of Columbia, do forthwith cease and desist from representing, directly or otherwise:

1. That said reference books are given away free of charge, or that the selling price thereof is $9.50 or any other sum less than the usual and customary price thereof provided the purchaser subscribes at the same time for a loose-leaf extension service for a period of years;
2. That the subscriber will be credited with $5.00 or any other sum for each set of reference books sold in the community wherein the subscriber resides;
3. That said reference books have been recommended by the local county school superintendent or by the American Library Association or by the immediate superior of the subscriber, or by any other individual, when such is not the case;
4. That said books will be sent out for approval;
5. That the subscriber will receive an additional book or copy each year for a succeeding period of years to accommodate the loose-leaf extension service, when such is not the case.
6. That said books are modern and up-to-date;
7. That said books are prepared especially for high school teachers.
8. Through use of the trade name "Cooperative Library Company", or through any other name of similar import and effect, or through any means or device, or in any manner, that the business conducted by him is a cooperative library enterprise or is anything other than a private business conducted for profit.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-2468; Filed, August 22, 1938; 11:56 a. m.]

TITLE 19—CUSTOMS DUTIES

BUREAU OF CUSTOMS

[T. D. 49683]

CUSTOMS REGULATIONS OF 1937 AMENDED RELATIVE TO THE KINDS AND PROPORTIONS OF IMPORTED SEEDS TO BE COLORED

AUGUST 17, 1938.

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in section 161 of the Revised Statutes (U. S. C. title 5, sec. 22), and section 5 (c) of the Federal Seed Act, as amended by the Act approved April 26, 1926 (U. S. C. title 7, sec. 115 (c)), article 592 of the Customs Regulations of 1937[1] is amended, effective August 15, 1938, to read as follows:

ART. 592. *Kinds and proportions of seeds to be colored.*—(a) Except as provided in sub-paragraphs (c) and (d) of this regulation, the importation into the United States of seeds of alfalfa or red clover, or any mixture of seeds containing 10 per cent or more of the seeds of alfalfa or red clover, is prohibited, unless 5 per cent of the seeds in each container are stained with the color specified in sub-paragraph (b) of this regulation: *Provided,* That seeds of Canadian origin shall be stained 1 per cent.

(b) Seed of Canadian origin shall be stained iridescent violet. Except as provided in (d) or by notices issued by the Secretary of Agriculture, under section 5 of the act, seed originating in any foreign country other than Canada shall be stained green.

(c) Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination and, on and after the expiration of 90 days after the date of such publication and until such determination is revoked, the importation into the United States of any such seeds or of any mixture of seeds containing 10 per cent or more of such seeds of alfalfa or red clover is prohibited, unless at least 10 per cent of the seeds in each container is stained a red color.

(d) The importation into the United States of seed of alfalfa or red clover or any mixture of seeds containing 10 per cent or more of the seed of alfalfa or red clover is prohibited unless at least 10 per cent of the seed in each container is stained red: (1) when the origin of such alfalfa or red clover seed is not established; (2) when such alfalfa or red clover seed is of two or more origins not subject to the same color designation; (3) when such alfalfa or red clover seed consists of seed grown in a foreign country commingled with seed of the same kind grown in the United States; or (4) when such alfalfa or red clover seed has been colored, prior to being offered for entry, with a color different from that required under this regulation.

(e) The live, pure seed requirements of the act shall apply to mixtures of seed, as a whole, and to each kind or variety of seed therein which is specifically subject to the act and a principal component part of the mixture.

H. A. WALLACE,
[SEAL] *Secretary of Agriculture.*
STEPHEN B. GIBBONS,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2463; Filed, August 22, 1938; 9:48 a. m.]

[1] 2 F. R. 1581 (1869 DI).

[T. D. 49635]

DOMESTIC MANUFACTURER'S PROTEST ON CLASSIFICATION OF AND RATE OF DUTY IMPOSED ON WOOL HOOKED RUGS OVERRULED

To Collectors of Customs and Others Concerned:

In view of the decision of the United States Court of Customs and Patent Appeals, rendered April 25, 1938 (Treasury Decision 49577), in the case of the New England Guild *v.* United States (International Clearing House of New York, Inc., appearing as party in interest), affirming the judgment of the Customs Court in overruling the protest filed under authority of section 516 (b), Tariff Act of 1930 (U. S. C. title 19, sec. 1516 (b)), by the New England Guild against the classification of and rate of duty imposed on wool hooked rugs of the kind described in Treasury Decision 47924 dated October 14, 1935, Treasury Decision 48278 dated April 28, 1936, is revoked, and collectors of customs are authorized to proceed with the liquidation of entries, the liquidation of which was suspended by the latter treasury decision.

[SEAL] FRANK DOW,
Acting Commissioner of Customs.

Approved, August 13, 1938.

WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2464; Filed, August 22, 1938; 9:48 a. m.]

TITLE 20—FISH AND GAME

BUREAU OF FISHERIES

[No. 251-24-7]

AMENDMENT OF ALASKA FISHERY REGULATIONS

AUGUST 19, 1938.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6,

1924 (43 Stat. 464), as amended by the act of June 18, 1926 (44 Stat. 752), as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-fourth edition, issued under date of February 15, 1938, together with subsequent regulations,[1] are hereby amended by the following regulation:

SOUTHEASTERN ALASKA AREA

Western District

Salmon fishery.—Regulations No. 8 and No. 9[2] are amended so as to permit commercial fishing for salmon south of 58 degrees north latitude from 6 o'clock postmeridian August 19 to 6 o'clock postmeridian August 20.

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 38-2445; Filed, August 19, 1938; 4:22 p. m.]

TITLE 21—FOOD AND DRUGS

FOOD AND DRUG ADMINISTRATION

[Service and Regulatory Announcements]

REGULATIONS UNDER SECTION 801 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Under the authority of sections 701 (b) and 801 (b) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717—75th Congress; Chapter 675—3rd Session) the regulations under section 11 of the Federal Food and Drugs Act of June 30, 1906 (U. S. C., 1934 ed., title 21, ch. 1) are hereby prescribed for the enforcement of the provisions of section 801 of the Federal Food, Drug, and Cosmetic Act of June 25, 1938 (Public No. 717—75th Congress; Chapter 675—3rd Session).

WAYNE C. TAYLOR,
Acting Secretary of Treasury.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

AUGUST 15, 1938.

[F. R. Doc. 38-2447; Filed, August 20, 1938; 12:12 p. m.]

TITLE 26—INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE

[T. D. 4855]

CLOSING AGREEMENTS AS TO FUTURE TAX LIABILITY

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 801 (Title V—Miscellaneous Provisions) of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), provides:

SEC. 801. CLOSING AGREEMENTS AS TO FUTURE TAX LIABILITY.

Section 606 (a) of the Revenue Act of 1928 is amended by striking out the words "ending prior to the date of the agreement."

PAR. B. Section 802 of Title V of the Revenue Act of 1938 provides:

SEC. 802. APPROVAL OF CLOSING AGREEMENTS.

Section 606 (b) of the Revenue Act of 1928 is amended by striking out "is approved by the Secretary, or the Under Secretary", and inserting in lieu thereof the following: "is approved by the Secretary, the Under Secretary, or an Assistant Secretary".

PAR. C. Section 606 (a) of the Revenue Act of 1928, as amended by section 801 of the Revenue Act of 1938, provides:

SEC. 606. CLOSING AGREEMENTS.

(a) *Authorization.*—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period.

PAR. D. Section 606 (b) of the Revenue Act of 1928, as amended by section 802 of the Revenue Act of 1938, provides:

SEC. 606. CLOSING AGREEMENTS.

* * * * *

(b) *Finality of agreements.*—If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

PAR. E. Section 616 of the Revenue Act of 1928 provides:

SEC. 616. COMPROMISES—CONCEALMENT OF ASSETS.

Any person who, in connection with any compromise under section 3229 of the Revised Statutes, as amended, or offer of such compromise, or in connection with any closing agreement under section 606 of this Act, or offer to enter into any such agreement, willfully (1) conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

PAR. F. Section 3447 of the United States Revised Statutes provides:

The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

Pursuant to the above-quoted provisions of law, the following regulations are hereby prescribed with respect to closing agreements under section 606 of the Revenue Act of 1928 as amended:

ARTICLE 1. *Closing agreements relating to tax liability in respect of internal-revenue taxes.*—Closing agreements provided for in section 606 of the Revenue Act of 1928, as amended, may relate to any taxable period ending prior or subsequent to the date of the agreement. With respect to taxable periods ending prior to the date of the agreement, the matter agreed upon may relate to the total tax liability of the taxpayer or it may relate to one or more separate items affecting the tax liability of the taxpayer, as for example, the amount of gross income, deductions for losses, depreciation or depletion, or the year for which an item of income is to be included in gross income or the year for which an item of loss is to be deducted, or the value of property on a specified date. A closing agreement may also be entered into in order to provide a "determination under the income tax laws" as defined in section 820 (a) (1) (A) of the Revenue Act of 1938. With respect to taxable periods ending subsequent to the date of the agreement, the matter agreed upon may relate only to one or more separate items affecting the tax liability of the taxpayer. The following, among others, are examples of the latter type of closing agreement: (1) A taxpayer may sell a portion of his holdings in a particular stock. A closing agreement may be entered into fixing the cost or other legal factor determining the basis for computing gain or loss on such sale, and, at the same time fixing the cost or other legal factor determining the basis (unless or until the statute is changed to require the use of some other factor to determine basis) of the remaining portion of the stock still held by the taxpayer upon which gain or loss will be computed when the taxpayer sells such stock in a later year; (2) if the taxpayer is undecided whether to sell property or hold it, or as to the price at which to sell it, a closing agreement may be entered into determining the market value of the property as of March 1, 1913, for future taxable periods, prior to the consummation of the sale by the taxpayer. A closing agreement with respect to any taxable period ending subsequent to the date of the agreement is subject to any change in or modification of the law enacted subsequent to the date of the agreement and applicable to such taxable period, and each closing agreement shall so recite. Closing agreements may be executed even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of agreements relating to the tax liability for a single period. Any tax or deficiency in tax determined pursuant to a closing agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded in

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[1] 3 F. R. 451, 512, 1019, 1382, 1940, 2018, 2043 DI.

[2] 3 F. R. 460 DI.

accordance with the applicable provisions of law.

The procedure in the Bureau of Internal Revenue with respect to applications for entering into closing agreements in accordance with these regulations will be under such rules as may be prescribed from time to time by the Commissioner.

These regulations apply to any closing agreement entered into on and after May 28, 1938, the date of the enactment of the Revenue Act of 1938. Article 1301 of Regulations 74 is hereby superseded.

[SEAL] MILTON E. CARTER,
Acting Commissioner of Internal Revenue.

Approved, August 18, 1938.

ROSWELL MAGILL,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2443; Filed, August 19, 1938; 3:56 p. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

OFFICE OF THE SECRETARY

[Department Circular No. 591]

REGULATIONS GOVERNING THE DISCLOSURE OF OFFICIAL INFORMATION

AUGUST 15, 1938.

To Heads of Bureaus, Offices, and Divisions, Treasury Department:

Pursuant to authority conferred by Section 161, Revised Statutes (U. S. C., 1934 ed., title 5, sec. 22), the following regulations are hereby prescribed and shall govern the disclosure of official information of the Treasury Department:

1. No record, claim, account, document, or other official instrument in writing, or any exhibit attached, or pertaining thereto, shall be withdrawn from the files of the Department by, or furnished to, any person not an officer or employee of the Department.

2. No copy of, or information relative to, any such instrument or exhibit, or to any other official business of the Department, which appears to be of a confidential nature, shall be given to any person unless (a) such person obtains a court order therefor, entered in pending litigation, or makes application therefor in the manner hereinafter prescribed in this paragraph, and (b) it appears to the Secretary, the Under Secretary, an Assistant Secretary, the Administrative Assistant to the Secretary, or the head of the Bureau, Office, or Division of the Department having charge of the subject matter to which such copy or information relates, that the furnishing thereof would not be inimical to the public interest. The application mentioned above shall be addressed to the Secretary and must set forth under oath the interest of the applicant in the subject matter and the purpose for which such copy or information is desired. Applications made hereunder by duly accredited officials of any State need not be under oath.

3. Treasury Department officers and employees are prohibited from testifying in court or otherwise with respect to information obtained as a result of their official capacities without the prior approval of the Secretary, the Under Secretary, an Assistant Secretary, the Administrative Assistant to the Secretary, or the head of the Bureau, Office, or Division of the Department in which such officer or employee is employed. An affidavit, by the litigant or his attorney, setting forth the interest of the litigant and the information with respect to which the testimony of such officer or employee is desired must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit, or to such portions thereof as may be deemed proper.

4. A reasonable fee may, in the discretion of the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary, be charged for furnishing copies of such instruments or exhibits, or information.

5. These regulations shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that compliance therewith would be in violation of law, or inimical to the public interest. Cases of doubt should be referred for decision to the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary.

6. The provisions of these regulations may be waived in proper cases by the Secretary, the Under Secretary, or an Assistant Secretary.

7. These regulations shall supersede Department Rule IX. All other Department orders, rules, regulations, circulars, etc., to the extent that they are in conflict herewith, are hereby revoked; provided, however, that Customs Regulations of 1937, Article 1465 (e) (3);[1] Regulations 4 of the Bureau of Narcotics, Chapter II, Articles 8 to 11, inclusive;[2] Regulations of the Public Health Service, 1931, paragraphs 469 and 470; Coast Guard Regulations, Article 1778 and Coast Guard Personnel Instructions, Article 5045 (2); regulations, rules, and orders governing the inspection of tax returns and the disclosure of information contained therein; and, Article 80 of Regulations 12, as amended by Treasury Decision 4640,[3] approved April 29, 1936, shall remain in full force and effect.

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of the Treasury.

[F. R. Doc. 38-2444; Filed, August 19, 1938; 3:59 p. m.]

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[1] 2 F. R. 1754 (2049 DI).
[2] 3 F. R. 1231 DI.
[3] 1 F. R. 309.

TITLE 42—PUBLIC HEALTH, WELFARE AND EDUCATION

CIVILIAN CONSERVATION CORPS

PART 3.—REGULATIONS RELATIVE TO ENROLLMENT, DISCHARGE, HOSPITALIZATION, DEATH, AND BURIAL OF ENROLLEES OF THE CIVILIAN CONSERVATION CORPS

SEC. 3.03 *Eligibility for selection and reselection.*

* * * * *

(b) *Reselection.*—An honorably discharged junior is ineligible for reselection for a period of 6 months following the date of his discharge. If then otherwise qualified he becomes eligible for reselection if his previous service subsequent to July 1, 1937, does not exceed 18 months: *Provided, however,* That a junior who was discharged because of the limitations imposed by section 8 of the act approved June 28, 1937, with regard to age and total length of service, is eligible for reselection at any subsequent enrollment period as one of the ten enrollees exempted from such limitations: *And provided further,* That a junior who was honorably discharged as a result of physical disability not the result of his own misconduct, and who has since overcome such disability, is eligible for reselection at any subsequent enrollment period if his previous service does not exceed 18 months.

An honorably discharged veteran will be ineligible for reselection for a period of 6 months following the date of his discharge. He will then become eligible for reselection regardless of his age, marital status, or the length of his former service in the Civilian Conservation Corps: *Provided, however,* That a veteran who was honorably discharged as a result of physical disability not the result of his own misconduct, and who has since overcome such disability, has been physically examined by the War Department, and has been certified by the War Department to the proper Regional Manager, Veterans' Administration, as physically eligible for reselection, may be reselected at any subsequent enrollment period.

A member administratively or dishonorably discharged from the Civilian Conservation Corps is thereafter ineligible for reselection: *Provided, however,* That a former enrollee, the type of whose discharge is changed by the corps area commander from administrative or dishonorable to honorable, is eligible for reselection at any enrollment period, if he be otherwise legally qualified. Such a man may have been offered reinstatement by the corps area commander, but his refusal to accept reinstatement when offered will not act as a bar to the reselection when contemplated.

A junior who has been discharged from the Civilian Conservation Corps because of marriage will not be eligible for reselection thereafter except as provided in section 3.02, paragraph (b). (50 Stat.

319) [C. C. C. Regs., W. D., Dec. 1, 1937; C 11, Aug. 16, 1938].

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 38-2446; Filed, August 20, 1938; 10:14 a. m.]

TITLE 43—PUBLIC LANDS

GENERAL LAND OFFICE

[Circular No. 1449]

FREE USE OF TIMBER UPON PUBLIC LANDS IN ALASKA BY CHURCHES, HOSPITALS AND CHARITABLE INSTITUTIONS

1. *Free use privilege extended to churches, hospitals and charitable institutions.*—The act of June 15, 1938 (Public No. 633, 75th Congress), amends Section 11 of the act of May 14, 1898 (30 Stat. 414), so as to extend the free use timber cutting privilege on the unreserved public lands in Alaska to churches, hospitals, and charitable institutions.

2. *Governing regulations.*—The cutting of timber on such lands by churches, hospitals and charitable institutions will be governed by the regulations contained in Circular No. 1394, dated June 20, 1936,[1] as herein amended.

3. *Regulations amended.*—The introductory paragraph and paragraphs 1 and 6 of Circular No. 1394 have been carried into the Code of Federal Regulations as Sections 79.1, 79.2, and 79.7, respectively, which regulations and sections are hereby amended to read as follows:

79.1 *Statutory authority.* Section 11 of the act of May 14, 1898 (30 Stat. 414; 48 U. S. C. 423), empowers the Secretary of the Interior to permit the use of timber found upon the public lands in Alaska by actual settlers, residents, individual miners and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting and for domestic purposes as may actually be needed by such persons for such purposes. This section was amended by the act of June 15, 1938 (Public No. 633), so as to permit the use of such timber by churches, hospitals and charitable institutions for firewood, fencing, buildings, and for domestic purposes.*

79.2 *Free use privilege; cutting by agent.* The only timber which may be cut under these regulations for free use in Alaska is timber on vacant public lands in the territory not reserved for national forest or other purposes. The timber so cut may not be sold or bartered. The free use privilege does not extend to associations or corporations, except churches, hospitals and charitable institutions. Any applicant entitled to the free use of timber may procure it by agent, if desired, but no part of the timber may be used in payment for services in obtaining it or in manufacturing it into lumber. Timber may not be cut by an applicant hereunder after the land has been included in a valid homestead settlement or entry or other claim, except that any applicant for the free use of timber who has given notice of intention to take it as hereinafter provided, will have the right to cut it while the notice remains in force as against a subsequent applicant who may wish to obtain the same timber by purchase.*

79.7 *Amount of timber which may be cut.* During each calendar year each applicant entitled to the benefits of the act may take a total of 100,000 feet board measure or 200 cords in saw logs, piling, cordwood or other timber. This amount may be taken in whole in any one of such classes of timber or in part of one kind and in part of another kind or other kinds. Where a cord is the unit of measure, it shall be estimated in relation with saw timber in the ratio of 500 feet board measure to the cord. Permits to take timber in excess of the amount stated may be granted to churches, hospitals and charitable institutions upon a showing of special necessity therefor, and with the approval of the Commissioner of the General Land Office. The restrictions as to quantity do not apply to timber cut for Government purposes under Section 79.3 (Par. 2, Cir. 1394).*

FRED W. JOHNSON,
Commissioner.

Approved, August 13, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 38-2462; Filed, August 22, 1938; 9:35 a. m.]

[1] 1 F. R. 688.

*Issued under authority of Sec. 11, 30 Stat. 414; 48 U. S. C. 423.

Notices

CIVIL AERONAUTICS AUTHORITY.

[Special Order 401-A-1]

EXEMPTING PENNSYLVANIA-CENTRAL AIRLINES CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938 INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER BETWEEN DETROIT, MICHIGAN, AND SAULT SAINTE MARIE, MICHIGAN, VIA INTERMEDIATE CITIES

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August 1938.

The matter of the exemption of Pennsylvania-Central Airlines Corporation from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, being under consideration by the Authority upon its own motion and investigation pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938, (52 Stat. 973, 984 and 1005), and, being fully advised in the premises, the Authority is of the opinion and finds:

(1) That Pennsylvania-Central Airlines Corporation is an air carrier engaged in the rendition of an air transportation service between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, was engaged in the rendition of a scheduled air transportation service over the following routes: Between Norfolk, Virginia, and Detroit, Michigan; between Baltimore, Maryland, and Pittsburgh, Pennsylvania; between Detroit, Michigan, and Milwaukee, Wisconsin; between Grand Rapids, Michigan, and Chicago, Illinois; between Washington, D. C., and Buffalo, New York; and between Buffalo, New York, and Pittsburgh, Pennsylvania; and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 28th day of July, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1) and said air carrier was ready, able and willing to inaugurate said service prior to said date, excepting, however, that the landing areas necessary for the operation of said service were not in proper condition to permit safe operations.

(4) That said air carrier is the holder of a contract with the Post Office Department for the carriage of mail over the route set forth in Finding (1); that said route was provided for by the Act of Congress, making appropriations for the Treasury Department and Post Office Department, approved March 28, 1938; and that said route is specifically set forth in section 401 (e) (2) of the Civil Aeronautics Act of 1938.

(5) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and in the training of its personnel for the operation of an air transportation service over said route.

(6) That the present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would be an undue burden on such air carrier by reason of the limited extent of and

the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and such enforcement would not be in the public interest.

(7) That failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, and that such termination would disrupt the carrying of mail between the cities served on said route and such other transportation service as is being rendered between said cities by said air carrier, all of which would be contrary to the public interest.

(8) That said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service of said air carrier over the route set forth in Finding (1), for the period from June 23, 1938, to and including 120 days thereafter, and that said air carrier should be permitted to continue its operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

(9) That, if said air carrier files with the Civil Aeronautics Authority within the period set forth in Finding (8) application for a Certificate of Convenience and Necessity for an air transportation service over the route set forth in Finding (1), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service from the date of the filing of such application to the effective date of the order of the Authority with respect to such application.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005) hereby makes and promulgates the following special order:

Special order 401-A-1.—Exempting Pennsylvania-Central Airlines Corporation from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 987) insofar as the same are applicable to the air transportation service rendered by said air carrier between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities.

Pennsylvania-Central Airlines Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, during the period from June 23, 1938, to and including 120 days thereafter, and said air carrier is hereby permitted to continue operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

Said air carrier is hereby further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service between Detroit, Michigan, and Sault Sainte Marie, Michigan, via intermediate cities, for a further period from the date on which said air carrier files application for a Certificate of Convenience and Necessity for said air transportation service to the effective date of the order of the the Civil Aeronautics Authority with respect to such application, provided, that said application for such Certificate of Convenience and Necessity is filed with the Authority within the period from June 23, 1938, to and including 120 days thereafter.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-2457; Filed, August 20, 1938; 3:03 p. m.]

[Special Order 401-A-2]

EXEMPTING UNITED AIR LINES TRANSPORT CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER TO MONTEREY, CALIFORNIA

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August 1938.

The matter of the exemption of United Air Lines Transport Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, being under consideration by the Authority, upon its own motion and investigation, pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) That United Air Lines Transport Corporation is an air carrier engaged in the rendition of an air transportation service between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, and prior to and since May 14, 1938, was and has been engaged in the rendition of a scheduled airline transportation service between Newark, New Jersey, and Chicago, Illinois; between Newark, New Jersey, and Cleveland, Ohio; between Chicago, Illinois, and Glenview, Illinois; between Chicago, Illinois, and Cheyenne, Wyoming; between Chicago, Illinois, and Denver, Colorado; between Denver, Colorado, and Cheyenne, Wyoming; between Denver, Colorado, and Salt Lake City, Utah; between Cheyenne, Wyoming, and Salt Lake City, Utah; between Salt Lake City, Utah, and Oakland, California; between Salt Lake City, Utah, and Portland, Oregon; between Portland, Oregon, and Spokane, Washington; between Vancouver, British Columbia, Canada, and Seattle, Washington; between Seattle, Washington, and Oakland, California; between Oakland, California, and Burbank, California, and between Burbank, California, and San Diego, California, and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 20th day of July, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1), and said air carrier was ready, able and willing to inaugurate said service prior to said date, except, however, that the landing area necessary for the operation of said service into and away from Monterey, California, was not in a proper condition to permit safe operations.

(4) That said air carrier, for some years last past, has conducted, and is now conducting, regularly scheduled airline transportation services over various routes between Oakland, California, and Burbank, California, and in connection with the rendition of such service was, prior to May 14, 1938, and is now, making regularly scheduled stops at San Francisco and Santa Barbara.

(5) That one of the regular routes flown by said air carrier, prior to the inauguration of said service into and away from Monterey, California, was a direct air route from San Francisco, California, to Burbank, California; that the City of Monterey is approximately 15 miles to the west of said direct route; that the sole change in operations or schedules effected by the amendment of July 20, 1938, to the Scheduled Airline Competency Certificate and appended competency letters held by said air carrier on said date was the addi-

tion of the City of Monterey, California, as a scheduled intermediate stop.

(6) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and in the training of its personnel for the operation of an air transportation service over said route.

(7) That the present enforcement of the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier over the route set forth in Finding (1) would be an undue burden on such air carrier by reason of the limited extent of and the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and such enforcement would not be in the public interest.

(8) That failure to exempt said air carrier from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, and that such termination would disrupt the carrying of mail between the cities served on said route and such other transportation service as is being rendered between said cities by said air carrier, all of which would be contrary to the public interest.

(9) That said air carrier should be exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service of said air carrier over the route set forth in Finding (1), and particularly the scheduled intermediate stop at Monterey, California, for the period from June 23, 1938, to and including 120 days thereafter, and that said air carrier should be permitted to continue to make a regularly scheduled stop at Monterey, California, and to continue its operations over the route set forth in Finding (1), and to render such service thereon during said period for such charges and rates as are established pursuant to law.

(10) That if said air carrier files with the Civil Aeronautics Authority, within the period set forth in Finding (9), application for a Certificate of Convenience and Necessity for an air transportation service over the route set forth in Finding (1), said air carrier should be further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service, from the date of filing of such application to the effective date of the order of the Authority with respect to such application.

The Civil Aeronautics Authority, therefore, pursuant to the Authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), hereby makes and promulgates the following special order:

Special order 401-A-2.—Exempting United Air Lines Transport Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 987), insofar as the same are applicable to the air transportation service rendered by said air carrier to Monterey, California.

United Air Lines Transport Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, during the period from June 23, 1938, to and including 120 days thereafter, and said air carrier is hereby permitted to continue operations over said route and render such service thereon during said period, for such charges and rates as are established pursuant to law.

Said air carrier is hereby further exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938 for all classes of traffic for which authorization is sought in connection with said air transportation service between Oakland, California, and Burbank, California, with scheduled intermediate stops at San Francisco, Monterey and Santa Barbara, for a further period from the date on which said air carrier files application for a Certificate of Convenience and Necessity for said air transportation service to the effective date of the order of the Civil Aeronautics Authority with respect to such application, provided that said application for such Certificate of Convenience and Necessity is filed with the Authority within the period from June 23, 1938, to and including 120 days thereafter.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-2452; Filed, August 20, 1938; 2:59 p. m.]

Special Order 401-A-3]

EXEMPTING WESTERN AIR EXPRESS CORPORATION FROM THE PROVISIONS OF SECTION 401 (A) OF THE CIVIL AERONAUTICS ACT OF 1938, INSOFAR AS THE SAME ARE APPLICABLE TO THE AIR TRANSPORTATION SERVICE RENDERED BY SAID AIR CARRIER OVER A ROUTE BETWEEN GREAT FALLS, MONTANA, AND GLACIER NATIONAL PARK (BROWNING, MONTANA)

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 20th day of August, 1938.

The matter of the exemption of Western Air Express Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act, insofar as the provisions of said section are applicable to the air transportation service rendered by said air carrier between Great Falls, Montana, and Glacier National Park (Browning, Montana), being under consideration by the Authority upon its own motion and investigation pursuant to the authority contained in sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), and being fully advised in the premises, the Authority is of the opinion and finds:

(1) That Western Air Express Corporation is an air carrier engaged in the rendition of an air transportation service between Great Falls, Montana, and Glacier National Park (Browning, Montana), and as such is subject to the provisions of the Civil Aeronautics Act of 1938 and the jurisdiction of the Civil Aeronautics Authority.

(2) That said air carrier, prior to the enactment of the Civil Aeronautics Act of 1938, and prior to and since May 14, 1938, was and has been engaged in the rendition of a scheduled air transportation service from San Diego, California, to Salt Lake City, Utah, to Great Falls, Montana, via intermediate points, and was then and yet is possessed of a valid Scheduled Airline Competency Certificate therefor issued by the Secretary of Commerce.

(3) That said Scheduled Airline Competency Certificate of said air carrier was amended on or about the 25th day of June, 1938, to permit the inauguration of a scheduled air transportation service over the route set forth in Finding (1) for the period from June 15 to September 30 of each year; that the application for such amendment was filed on or about the 26th day of May, 1938, with the Senior Airline Inspector of the Bureau of Air Commerce, Department of Commerce, at Burbank, California, pursuant to the Civil Air Regulations; that said application for amendment was approved, but by reason of the press of business pending before the Bureau of Air Commerce the applicant air carrier was not rated as competent to inaugurate said air transportation service until June 25, 1938; and that, therefore, said air carrier took every reasonable step within its power to inaugurate said air transportation service prior to June 23, 1938, the date of enactment of the Civil Aeronautics Act of 1938.

(4) That said air carrier has expended considerable sums of money in advertising the route set forth in Finding (1) and in the development of air traffic and the training of its personnel for the operation of an air transportation service over said route.

(5) That the present enforcement of the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applica-

ble to the air transportation service rendered by said air carrier over the route set forth in Finding (1), would be an undue burden on such air carrier by reason of the limited extent of and the unusual circumstances affecting the operations of such air carrier with respect to said air transportation service, and enforcement would not be in the public interest.

(6) That failure to exempt said air carrier from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, with respect to the air transportation service rendered during the current year by said air carrier over the route set forth in Finding (1), would necessitate termination of said air transportation service as of August 22, 1938, contrary to the public interest.

(7) That there are no competing air carriers operating between the terminals of the route set forth in Finding (1); that there are no such air carriers operating along a route parallel to said route set forth in Finding (1); and that no objections were made by any competing or other air carrier to the inauguration of said air transportation service over the route set forth in Finding (1).

(8) That Western Air Express Corporation should be exempted from the provisions of Section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the provisions of said section are applicable to the air transportation service rendered during the current year by said air carrier over the route set forth in Finding (1), for the period from August 21, 1938, to and including September 30, 1938, and that said air carrier should be permitted to continue its operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

The Civil Aeronautics Authority, therefore, pursuant to the authority vested in it by sections 205 (a) and 416 (b) of the Civil Aeronautics Act of 1938 (52 Stat. 973, 984 and 1005), hereby makes and promulgates the following special order:

Special order 401-A-3.—Exempting Western Air Express Corporation from the provisions of section 401 (a) of the Civil Aeronautics Act (52 Stat. 973, 987), insofar as the same are applicable to the air transportation service rendered by said air carrier over a route between Great Falls, Montana, and Glacier National Park (Browning, Montana).

Western Air Express Corporation is hereby exempted from the provisions of section 401 (a) of the Civil Aeronautics Act of 1938, insofar as the same are applicable to the air transportation service rendered by said air carrier over the route between Great Falls, Montana, and Glacier National Park (Browning, Montana), during the period from August 21, 1938, to and including September 30, 1938, and said air carrier is hereby permitted to continue operations over said route and to render such service thereon during said period for such charges and rates as are established pursuant to law.

By the Authority.

[SEAL] PAUL J. FRIZZELL, *Secretary.*

[F. R. Doc. 38-2458; Filed, August 20, 1938; 3:02 p. m.]

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 276]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Sections 3 (e) and 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation:	*Amount*
Colorado 8020A1 Delta	$200,000
Idaho 8010B1 Nez Perce	300,000
Indiana 8041A2 LaGrange	48,000
Minnesota 8010B1 Carlton	250,000
Minnesota 8010G1 Carlton	60,000
Montana 8005B1 Richland	29,000
North Carolina 8025C1 Rutherford	112,000
Washington 8003B1 Benton	54,500
Wyoming 8011C1 Lincoln	177,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2459; Filed, August 22, 1938; 9:34 a. m.]

[Administrative Order No. 277]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Sections 3 (e) and 5 of the Rural Electrification Act of 1936, I hereby allocate, from the sums made available during the fiscal year ending June 30, 1938 and not loaned or obligated during the said fiscal year, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Wisconsin 8029W1 Clark	$40,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2460; Filed, August 22, 1938; 9:34 a. m.]

[Administrative Order No. 278]

ALLOCATION OF FUNDS FOR LOANS

AUGUST 9, 1938.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	*Amount*
Michigan 9043A1 Chippewa	$427,000

JOHN M. CARMODY, *Administrator.*

[F. R. Doc. 38-2461; Filed, August 22, 1938; 9:34 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C. on the 18th day of August 1938

[File No. 1-1234]

IN THE MATTER OF APPLICATION BY THE BALTIMORE STOCK EXCHANGE TO STRIKE FROM LISTING AND REGISTRATION THE CAPITAL STOCK, NO PAR VALUE, OF CONSOLIDATED TEXTILE CORPORATION

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The Baltimore Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule JD2 promulgated thereunder, having made application to strike from listing and registration the Capital Stock, No Par Value, of Consolidated Textile Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, September 22, 1938, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2448; Filed, August 20, 1938; 12:22 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of August, A. D. 1938.

[File No. 32-92]

IN THE MATTER OF PAGE POWER COMPANY

ORDER EXEMPTING ISSUE AND SALE OF SECURITIES AUTHORIZED BY STATE COMMISSION

Page Power Company, a subsidiary of Republic Service Corporation, a registered holding company, has filed an application and one amendment thereto, pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of the Act, of the issue and sale of 1,400 shares of its no-par value common capital stock at a price of $50 per share or an aggregate cash consideration of $70,000;

A hearing having been held upon such application as amended, after appropriate notice,[1] the record in this matter having been duly considered and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in and for the purpose represented by said application as amended, be and the same hereby are exempted from the provisions of Section 6 (b) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the State Corporation Commission of the Commonwealth of Virginia shall be revoked, or shall otherwise terminate, or if the provisions of the stipulation of Republic Service Corporation (applicant's parent) dated August 3, 1938, which is filed as an exhibit to and made a part of the record in this matter, are disregarded or violated, this exemption shall immediately terminate without further order of this Commission as of the date hereof; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of these securities have been effected in accordance with the terms and conditions and for the purpose represented by said application, as amended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2449; Filed, August 20, 1938; 12:22 p. m.]

[1] 3 F. R. 1388 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 20th day of August, A. D. 1938.

[File No. 34-22]

IN THE MATTER OF HENRY A. GARDNER, ET AL., ACTING AS UTILITIES ELKHORN COAL COMPANY BONDHOLDERS COMMITTEE

NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to Sections 11 (g) and 12 (e) of the Public Utility Holding Company Act of 1935 and to Rule U-12E-3 (e) and an application pursuant to Section 11 (f) of the Public Utility Holding Company Act of 1935 and Rule U-11F-2, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on September 19, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 14, 1938.

The matter concerned herewith is in regard to a declaration pursuant to Rule U-12E-3 (e) and U-12E-5 with respect to the solicitation by Henry A. Gardner, Chairman, John A. Dawson, and Robert W. Hotchkiss, as Utilities Elkhorn Coal Company Bondholders Committee, of limited authorizations accompanied by a deposit of the First Mortgage Bonds of Utilities Elkhorn Coal Company, a subsidiary of Utilities Power & Light Corporation, both of which are now in the process of reorganization under Section 77B of the Bankruptcy Act, as amended, in the Federal District Court of the Northern District of Illinois, Eastern Division, which case is entitled "In the Matter of Utilities Power & Light Corporation, a corporation Debtor, Utilities Elkhorn Coal Company, subsidiary Debtor, No. 64605";

And in regard to an application pursuant to Rule U-11F-2 with respect to an exemption from such rule for interim expenditures for expenses to be made by the Utilities Elkhorn Coal Company Bondholders Committee in the maximum amount of $10,000, every item of such expenditure to be subject to the further approval of the Federal District Court of the Northern District of Illinois, Eastern Division, such expenses to be paid either out of the funds of Utilities Power & Light Corporation or Utilities Elkhorn Coal Company, as may be directed by the Federal District Court of the Northern District of Illinois, Eastern Division, which now has jurisdiction of the reorganization proceedings of such companies under Section 77B of the Bankruptcy Act, as amended, Case No. 64605.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-2450; Filed, August 20, 1938; 12:22 p. m.]